

Racial Profiling

A Comparison of SB 77 and House Substitute for SB 77

SB 77 as introduced

- Made racial profiling a class A misdemeanor.
- Defined “Routine investigatory activities” to include traffic stops and pedestrian stops.
- Required uniform racial profiling data collection form to be filled out after each stop. A copy would be given to the stopped individual as well as to the AG’s office for a compilation into a state wide discriminatory policing data base.
- Created citizen review boards which reflect the racial and ethnic community, to investigate and respond within 60 days to complaints alleging racial profiling by law enforcement officers and agencies. The citizen’s review board shall submit a written finding of fact to the citizen who filed the complaint, the Kansas human rights commission (KHRC) and the law enforcement agency against whom the complaint was alleged.
- Any person who is subjected to racial profiling shall have a civil cause of action against any law enforcement officer or agency and shall be entitled to recover damages from any such officer, any person with supervisory authority over such officer and agency if it is determined by the court that such persons or agency engaged in racial profiling. The court may allow the prevailing plaintiff reasonable attorney fees.

SB 77 as signed by the Governor

- The bill does not create a misdemeanor crime.
- Removes pedestrian from the definition of “routine investigatory activity”.
- Requires written policy prohibiting racial profiling; including annual educational training, discipline for a violation of the law, and a provision to inform the public of the right to file a complaint with a law enforcement agency or the KHRC.
- Creates a task force appointed by the Governor to study the need for, and, if necessary, design a method for uniform data collection.
- Requires collection of data on complaints regarding racial profiling with an annual report given to the AG.
- A complaint filed with the KHRC may be investigated by the Commission and the Commission's designee would be required to consult with the head of the law enforcement agency before recommending discipline of the law enforcement officer.
- The bill creates a civil cause of action in the district court upon the disposition of a complaint by the KHRC.
- A district court would be permitted to award reasonable attorney fees and court costs to the prevailing party in a civil action filed after the disposition of a complaint by the KHRC.

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