

**Senate Study Bill 1038 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

**A BILL FOR**

1 An Act relating to law enforcement profiling by standardizing  
2 collection and centralizing the compilation and reporting  
3 of officer stop and compliance data, providing for officer  
4 training, creating a community policing advisory board,  
5 providing for penalties and remedies, and including  
6 effective date provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 80B.11, subsection 1, paragraphs a and b,  
2 Code 2019, are amended to read as follows:

3 a. Minimum entrance requirements, course of study,  
4 attendance requirements, and equipment and facilities required  
5 at approved law enforcement training schools. Minimum age  
6 requirements for entrance to approved law enforcement training  
7 schools shall be eighteen years of age. Minimum course of  
8 study requirements shall include a separate domestic abuse  
9 curriculum, which may include but is not limited to outside  
10 speakers from domestic abuse shelters and crime victim  
11 assistance organizations. Minimum course of study requirements  
12 shall also include a sexual assault curriculum, and a separate  
13 curriculum regarding the prevention of profiling as defined in  
14 section 80H.2.

15 b. Minimum basic training requirements law enforcement  
16 officers employed after July 1, 1968, must complete in order  
17 to remain eligible for continued employment and the time  
18 within which such basic training must be completed. Minimum  
19 requirements shall mandate training devoted to the topic of  
20 domestic abuse, and sexual assault, and the prevention of  
21 profiling as defined in section 80H.2. The council shall  
22 submit an annual report to the general assembly by January 15  
23 of each year relating to the continuing education requirements  
24 devoted to the topic of domestic abuse, and the prevention of  
25 profiling as defined in section 80H.2, including the number of  
26 hours required, the substance of the classes offered, and other  
27 related matters.

28 Sec. 2. Section 80B.11, subsection 1, paragraph c,  
29 subparagraph (2), Code 2019, is amended to read as follows:

30 (2) In-service training under this paragraph "c" shall  
31 include the requirement that all law enforcement officers  
32 complete a course on the prevention of profiling as defined in  
33 section 80H.2, and a course on investigation, identification,  
34 and reporting of public offenses based on the race, color,  
35 religion, ancestry, national origin, political affiliation,

1 sex, sexual orientation, age, or disability of the victim. The  
2 director shall consult with the civil rights commission, the  
3 department of public safety, and the prosecuting attorneys  
4 training coordinator in developing the requirements for this  
5 course and may contract with outside providers for this course.

6 Sec. 3. NEW SECTION. 80H.1 Purpose — construction.

7 It is the purpose of this chapter to prohibit racial and  
8 ethnic profiling in law enforcement, to foster trust and  
9 cooperation with law enforcement in Iowa communities, and  
10 to create a safer state for all Iowans, law enforcement and  
11 citizens alike.

12 Sec. 4. NEW SECTION. 80H.2 Definitions.

13 As used in this chapter, unless the context otherwise  
14 requires:

15 1. "Board" means the community policing advisory board.

16 2. a. "Discriminatory pretextual stop" means a stop  
17 involving disparate treatment by the officer or a stop  
18 for which the person's race, color, ethnicity, religion,  
19 or national origin was considered or relied upon or was a  
20 motivating factor in the officer's decision to make the stop  
21 or to take other action during the stop, including a request  
22 to consent to a search.

23 b. It is not a discriminatory pretextual stop when an  
24 officer bases the officer's decision to make a stop on a  
25 specific suspect description-based identification that includes  
26 in the suspect's identification one or more of the personal  
27 characteristics or traits listed in subsection 4.

28 3. "Disparate treatment" means differential treatment of  
29 a person on the basis of race, color, ethnicity, religion, or  
30 national origin.

31 4. "Division of criminal and juvenile justice planning" means  
32 the division of criminal and juvenile justice planning of the  
33 department of human rights.

34 5. "Law enforcement activities" mean any of the following:  
35 traffic, bicyclist, or pedestrian stops by an officer; and

1 actions during a stop, including asking questions, frisks,  
2 consensual and nonconsensual searches of an individual or any  
3 property, seizing any property, removing occupants from a motor  
4 vehicle during a traffic stop, issuing a warning or citation,  
5 and making an arrest. "*Law enforcement activities*" does not  
6 include any of the following: road blocks, vehicle check  
7 points, and security checks where every person seeking to enter  
8 a venue or facility is subject to detention, questioning, or  
9 a search of person or property, and responses to appeals for  
10 service.

11 6. "*Officer*" means a peace officer, as defined in section  
12 801.4 including while employed off-duty by a private employer  
13 and in uniform, but not including a probation officer or a  
14 parole officer.

15 7. "*Personal identifying information*" means a person's name,  
16 address, or any other information that would allow a third  
17 party to identify the person by name.

18 8. "*Pretextual stop*" means a stop by an officer of a driver  
19 or passenger, a bicyclist, or a pedestrian for an alleged  
20 violation of the law, to allow the officer to then question  
21 and probe for information that might suggest the person  
22 has committed some not apparent or yet-to-be identified law  
23 violation. A stop shall be considered a pretextual stop under  
24 the following circumstances:

25 a. When the race, color, ethnicity, religion, or national  
26 origin of the person stopped was considered or relied upon  
27 or was a motivating factor in making the decision to make a  
28 racially discriminatory stop.

29 b. When the officer prolonged the stop beyond the amount  
30 of time when the law enforcement tasks tied to the alleged  
31 violation are or reasonably should have been completed.

32 9. "*Profiling*" means any of the following when an officer is  
33 deciding to initiate law enforcement activities including the  
34 use and scope of such activities:

35 a. Consideration or reliance upon actual or perceived race,

1 color, ethnicity, religion, or national origin.

2 *b.* Disparate treatment of a person.

3 *c.* Making or conducting a discriminatory pretextual stop.

4 10. "*Specific suspect description-based identification*" means  
5 a reasonably detailed physical description of the personal  
6 identifying characteristics of a potential suspect, including  
7 but not limited to age, sex, ethnicity, race, or English  
8 language proficiency.

9 11. "*Stop*" means the detention of a person by an officer,  
10 including a temporary detention.

11 Sec. 5. NEW SECTION. 80H.3 Profiling — prohibition —  
12 allowed policy and actions.

13 1. An officer shall not engage in profiling in the course of  
14 performing law enforcement activities.

15 2. This section shall not prohibit any of the following:

16 *a.* A law enforcement agency's policy allowing the use of  
17 information that has been provided by a victim describing the  
18 personal identifying characteristics of an alleged perpetrator  
19 of a crime in order to seek out persons who match that  
20 description.

21 *b.* An action by an officer that relies upon any of the  
22 following:

23 (1) Personal identifying information or a specific suspect  
24 description-based identification. However, a specific suspect  
25 description-based identification only provides probable  
26 cause or reasonable suspicion to stop a person who reasonably  
27 resembles the person described in that identification, and does  
28 not allow an officer to stop a person merely because the person  
29 is of the same race, color, ethnicity, religion, or national  
30 origin as the suspect.

31 (2) A person's observed behavior linking that person or  
32 another person to suspected unlawful activity that establishes  
33 probable cause or a reasonable suspicion that criminal activity  
34 is afoot.

35 (3) Other trustworthy information or circumstances,

1 relevant to the locality and time frame, linking a person to  
2 suspected unlawful activity that establishes probable cause or  
3 a reasonable suspicion that criminal activity is afoot.

4     *c.* A traffic stop when directed at the traffic-related  
5 mission, namely, checking a driver's license, vehicle  
6 registration, insurance or financial responsibility,  
7 outstanding warrants, and issuing citations or preparing  
8 warnings. However, the authority for a traffic stop ends  
9 when the officer's tasks tied to the traffic infraction that  
10 is the basis for the stop are or reasonably should have been  
11 completed.

12     Sec. 6. NEW SECTION. 80H.4 Community policing advisory  
13 board — establishment and role.

14     1. The attorney general shall establish a community  
15 policing advisory board for the purpose of recognizing and  
16 promoting awareness of profiling by law enforcement, reviewing  
17 data collected under this chapter and the analysis thereof, and  
18 facilitating discussion of best practices to prevent profiling.  
19 In establishing the board, the attorney general shall ensure  
20 that the board is racially and ethnically diverse and gender  
21 balanced. The attorney general shall also provide or arrange  
22 for necessary staff to assist the board.

23     2. The board shall consist of sixteen voting members and  
24 four ex officio, nonvoting members.

25     *a.* The attorney general shall appoint nine voting members  
26 nominated from the following described organizations or groups  
27 or who hold the following described positions:

28         (1) Four representatives from community organizations  
29 historically associated with efforts to eliminate racial  
30 discrimination that work with victims of racial and ethnic  
31 profiling, of whom one representative shall be at least sixteen  
32 years of age but not more than twenty-four years of age at the  
33 time of appointment.

34         (2) Three representatives from advocacy groups that support  
35 persons who have experienced discrimination based on race,

1 color, ethnicity, religion, or national origin.

2 (3) Two members of the clergy who have significant  
3 experience in addressing and reducing racial discrimination and  
4 other biases.

5 *b.* The following seven voting members shall serve on the  
6 board:

7 (1) The attorney general or the attorney general's  
8 designee.

9 (2) The director of the department of public safety or the  
10 director's designee.

11 (3) The director of the Iowa law enforcement academy.

12 (4) The state public defender or the state public defender's  
13 designee.

14 (5) The director of the Iowa civil rights commission.

15 (6) The president of the board of directors of the Iowa  
16 police chiefs association, or the president's designee.

17 (7) The president of the Iowa state sheriffs' and deputies'  
18 association or the president's designee.

19 *c.* The board shall include four members of the general  
20 assembly who shall serve as ex officio, nonvoting members. The  
21 legislative members shall be appointed as follows:

22 (1) One member of the senate appointed by the majority  
23 leader of senate.

24 (2) One member of the senate appointed by the minority  
25 leader of the senate.

26 (3) One member of the house of representatives appointed by  
27 the speaker of the house of representatives.

28 (4) One member of the house of representatives appointed by  
29 the minority leader of the house of representatives.

30 3. Notwithstanding section 7E.6, nonlegislative members  
31 shall only receive reimbursement for actual expenses for  
32 performance of their official duties as members of the board.  
33 Members of the general assembly shall not receive a per diem  
34 but shall receive reimbursement for necessary travel and actual  
35 expenses incurred in the performance of their official duties.

1 4. The board may act or make recommendations only upon a  
2 vote of a majority of the voting membership of the board.

3 5. *a.* The initial term of a member appointed pursuant  
4 to subsection 2, paragraph "a", subparagraph (1), shall be  
5 four years, and after the initial term has been served, the  
6 appointment shall be for a term of four years.

7 *b.* The initial term of a member appointed pursuant to  
8 subsection 2, paragraph "a", subparagraph (2) or (3), shall  
9 be two years, and after the initial term has been served, the  
10 appointment shall be for a term of four years.

11 6. Each year the board shall elect two voting members as  
12 co-chairpersons.

13 7. The board shall do all of the following by April 1, 2021:

14 *a.* Approve rules prior to their adoption by the department  
15 of justice pursuant to chapter 17A.

16 *b.* Develop a standard notice form to be provided to a person  
17 stopped by an officer, when practicable, informing the person  
18 of the person's right to file a complaint with the Iowa civil  
19 rights commission if the person believes that the person has  
20 been a victim of profiling.

21 *c.* Advise the department of justice regarding the  
22 department's development of guidelines for the collection,  
23 compilation, and reporting of traffic, bicycle, and pedestrian  
24 stop data in order to ensure uniform reporting practices across  
25 all reporting law enforcement agencies.

26 8. Each year beginning July 1, 2022, the board shall do all  
27 of the following:

28 *a.* Evaluate and comment upon the collection, compilation,  
29 and reporting of traffic, bicycle, and pedestrian stop data by  
30 law enforcement agencies reported to the department of justice.

31 *b.* Review the analysis of such data by the division of  
32 criminal and juvenile justice planning and consider the  
33 effectiveness of law enforcement training under section 80G.8,  
34 including whether the training could be improved.

35 *c.* Work in partnership with state and local law enforcement



1 agencies to review and analyze profiling across geographic  
2 areas of this state.

3 *d.* Consult available evidence-based research on intentional  
4 and implicit biases, and their impact on law enforcement stop,  
5 search, and seizure tactics.

6 *e.* (1) Issue an annual report that provides the board's  
7 analysis of the board activities required by paragraphs "a"  
8 through "d", makes detailed findings on the past and current  
9 status of profiling, and makes policy recommendations for  
10 eliminating profiling and other discriminatory practices.

11 (2) The report shall be retained and made available to the  
12 public by posting the report on the attorney general's internet  
13 site. The report shall first be issued by February 1, 2023,  
14 and by February 1 every year thereafter.

15 (3) The report is a public record within the meaning of  
16 chapter 22 subject to public inspection under chapter 22.

17 *f.* Hold at least three annual public meetings to discuss  
18 profiling and potential reforms to prevent profiling. The  
19 board shall provide notice to the public of the location of  
20 each public meeting at least sixty days before the date of the  
21 meeting.

22 9. The board shall be subject to the provisions of chapters  
23 21 and 22.

24 **Sec. 7. NEW SECTION. 80H.5 Notice of right to file**  
25 **complaint with the civil rights commission.**

26 A law enforcement agency shall require, when practicable,  
27 an officer who makes a stop to provide to the person stopped  
28 the standard notice form developed by the board informing the  
29 person of the person's right to file a complaint with the civil  
30 rights commission if the person believes that the person has  
31 been a victim of profiling.

32 **Sec. 8. NEW SECTION. 80H.6 Data collection and reporting.**

33 1. Each state and local law enforcement agency shall  
34 annually submit to the department of justice, no later than  
35 December 31 of each year, the agency's current policies that

1 address profiling, and the agency shall post and maintain the  
2 current policy on the internet site of the agency.

3 2. Each state and local law enforcement agency shall  
4 collect and compile data on every traffic, bicycle, and  
5 pedestrian stop conducted by the officers of the agency during  
6 the calendar year, and shall submit a report annually to the  
7 department of justice. The following information shall be  
8 collected, compiled, and reported on each stop, including stops  
9 that involve questioning and driver's license and vehicle  
10 registration checks but do not result in a written citation or  
11 written warning:

12 a. The time, date, location, and duration of the stop.

13 b. The reason for the stop.

14 c. Whether a driver's license or vehicle registration check  
15 was run.

16 d. Whether an oral or written warning was given or a  
17 citation issued.

18 e. The offense the person was arrested for, if applicable.

19 f. The following identifying characteristics of the person  
20 stopped including perceived race, ethnicity, English language  
21 proficiency, sex, and approximate age. The identification of  
22 these characteristics shall be based principally on information  
23 digitally accessible from the person's driver's license or  
24 nonoperator's identification card and only secondarily on the  
25 observation and perception of the officer making the stop. The  
26 officer shall not be required to inquire about race, ethnicity,  
27 and English language proficiency of the person stopped. The  
28 identifying characteristics of a passenger in a motor vehicle  
29 shall also be reported if the stop involved both the passenger  
30 and a search reported under paragraph "g".

31 g. The following actions taken by an officer during the  
32 stop:

33 (1) Whether the officer asked for consent to search the  
34 person or vehicle and whether consent was provided.

35 (2) Whether the officer searched the person or any property,

1 and if a search was performed, the basis for the search.

2 (3) Whether the officer seized any property, and a  
3 description of the property seized and the basis for seizing  
4 the property.

5 (4) Whether the officer used physical force or physical  
6 force was used against the officer.

7 *h.* Other information which the officer or law enforcement  
8 agency considers appropriate.

9 3. In consultation with law enforcement agencies, the  
10 division of criminal and juvenile justice planning, and  
11 the board, the attorney general shall develop a uniform  
12 standardized form for each law enforcement agency to use in  
13 collecting, compiling, and reporting the information described  
14 in subsection 2.

15 4. Each state law enforcement agency and a local law  
16 enforcement agency in the state with jurisdiction over fifty  
17 thousand residents shall submit the agency's first report on  
18 or before January 1, 2022. A local law enforcement agency  
19 in the state with jurisdiction over twenty-five thousand  
20 residents but not more than fifty thousand residents shall  
21 submit the agency's first report on or before January 1, 2023.  
22 The remaining local law enforcement agencies shall submit the  
23 agency's first report on or before January 1, 2024.

24 5. Except as otherwise provided in this chapter, a  
25 law enforcement agency shall not grant access to personal  
26 identifying information contained in the data collected by  
27 the law enforcement agency to any person except to a federal,  
28 state, local, or tribal government employee or agent who  
29 requires access to such information in order to collect,  
30 compile, and report the data.

31 6. A law enforcement agency may permit a contractor  
32 or nongovernmental agent access to personal identifying  
33 information that is contained in the data collected, if the  
34 contractor or nongovernmental agent signs an agreement which  
35 prohibits access of the personal identifying information beyond

1 access to the contractor or nongovernmental agent, and if the  
2 contractor or nongovernmental agent assures the law enforcement  
3 agency in the agreement that adequate security measures have  
4 been implemented to prevent unauthorized access to the personal  
5 identifying information.

6 Sec. 9. NEW SECTION. 80H.7 Department of justice adoption  
7 of rules for data collection — analysis of data by division of  
8 criminal and juvenile justice planning.

9 1. In consultation with the board and the Iowa civil rights  
10 commission, and with input from stakeholders including federal,  
11 state, and local law enforcement agencies, local communities,  
12 researchers, and civil rights organizations, the department  
13 of justice shall adopt rules pursuant to chapter 17A for law  
14 enforcement agency collection, compilation, and reporting  
15 of law enforcement data related to traffic, bicycle, and  
16 pedestrian stops. The rules adopted under this section must  
17 do the following:

18 a. Require each law enforcement agency to collect and  
19 compile data as required by section 80H.6, and report annually  
20 to the department of justice on the agency's traffic, bicycle,  
21 and pedestrian stops on a standardized form developed by the  
22 attorney general.

23 b. Require each law enforcement agency to prominently  
24 publicize the compiled data reported to the attorney general  
25 pursuant to section 80H.6, on at least a quarterly basis, on  
26 the law enforcement agency's internet site, or make such data  
27 available electronically within thirty days upon request if the  
28 law enforcement agency lacks an internet site.

29 c. Require each law enforcement agency and the division of  
30 criminal and juvenile justice planning to maintain all data  
31 collected, compiled, and reported pursuant to section 80G.6 for  
32 at least fifteen years.

33 d. Provide for the protection and privacy of any personal  
34 identifying information about the officer or the person stopped  
35 that is contained in the data by removing any such personal

1 identifying information prior to publicizing the data pursuant  
2 to paragraph "b" and subsection 2.

3 2. The division of criminal and juvenile justice planning  
4 shall compile all data reported to the department of justice  
5 pursuant to this chapter, and shall analyze annually the data  
6 in a timely manner, and provide the analysis of the data, along  
7 with the compiled data, to the department of justice, the  
8 board, the Iowa civil rights commission, and the public. The  
9 report shall be accessible to the public from a prominent place  
10 on the internet sites of the department of human rights, the  
11 department of justice, and the Iowa civil rights commission.  
12 The report shall include disaggregated statistical data for  
13 each reporting law enforcement agency, and, at a minimum, each  
14 reporting law enforcement agency's total results for each data  
15 collection criterion for the calendar year.

16 3. If a law enforcement agency is noncompliant with the  
17 collection, compilation, and reporting duties of this section,  
18 the attorney general shall take necessary action, including  
19 seeking a writ of mandamus and other appropriate judicial  
20 remedies, to secure compliance.

21 Sec. 10. NEW SECTION. 80H.8 Training.

22 1. The director of the Iowa law enforcement academy,  
23 subject to the approval of the Iowa law enforcement academy  
24 council, shall develop and disseminate training guidelines  
25 and best practices to reduce and eliminate profiling. In  
26 developing the training guidelines and best practices, the  
27 director shall consult with the department of justice, the  
28 board, the Iowa civil rights commission, and the division of  
29 criminal and juvenile justice planning, with opportunity for  
30 input from federal, state, and local law enforcement agencies,  
31 civil rights organizations, and persons having an interest and  
32 expertise in the field of cultural awareness and diversity.

33 2. Each law enforcement agency shall provide, and every  
34 officer shall participate in training on issues related to  
35 profiling, prevention of profiling, data collection, reporting

1 methods, and best practices at least every other year.

2 Sec. 11. NEW SECTION. 80H.9 Retaining and producing stop  
3 data, reporting profiling, and prohibiting retaliation.

4 1. The division of criminal and juvenile justice planning  
5 and each law enforcement agency shall retain and, upon request,  
6 shall produce personal identifying stop data for individual  
7 officers for use by the law enforcement agency and the Iowa  
8 civil service commission for internal investigation and  
9 disciplinary proceedings, for use by the Iowa civil rights  
10 commission when investigating or adjudicating a charge  
11 of discrimination under section 216.10A, and for use by a  
12 complainant upon receipt of a right to sue letter from the  
13 commission. Such personal identifying stop data for an  
14 individual officer and the division of criminal and juvenile  
15 justice planning's analysis of that data are admissible in an  
16 adjudication of a claim of unfair or discriminatory practice  
17 under section 216.10A.

18 2. An officer is obligated to prevent, report, and respond  
19 to profiling by a fellow officer. An officer or employee of a  
20 law enforcement agency who opposes profiling or makes a charge,  
21 testifies against, assists, or participates in any manner in an  
22 investigation, proceeding, or hearing related to profiling is  
23 protected against retaliation by section 216.11.

24 3. An officer or an employee of a law enforcement agency  
25 who retaliates against an officer or employee for opposing  
26 profiling or making a charge, testifying against, assisting, or  
27 participating in any manner in an investigation, proceeding, or  
28 hearing related to profiling shall be subjected to discipline,  
29 including dismissal.

30 Sec. 12. NEW SECTION. 80H.10 Statutory remedies not  
31 exclusive.

32 The remedies authorized in this chapter are not exclusive  
33 and do not foreclose a person from asserting any remedies the  
34 person may have based on the common law or other statutes.

35 Sec. 13. Section 216.2, subsection 15, Code 2019, is amended

1 to read as follows:

2 15. *“Unfair practice”* or *“discriminatory practice”* means  
3 those practices specified as unfair or discriminatory in  
4 sections 216.6, 216.6A, 216.7, 216.8, 216.8A, 216.9, 216.10,  
5 216.10A, 216.11, and 216.11A.

6 Sec. 14. Section 216.6, subsection 1, Code 2019, is amended  
7 by adding the following new paragraph:

8 NEW PARAGRAPH. e. Employer or the employees or agents  
9 thereof to discriminate against an employee because the  
10 employee makes a charge, testifies against, assists, or  
11 participates in any manner in an investigation, proceeding, or  
12 hearing related to profiling pursuant to chapter 80G.

13 Sec. 15. NEW SECTION. 216.10A **Profiling — unfair or**  
14 **discriminatory practice.**

15 1. It shall be an unfair or discriminatory practice for a  
16 peace officer to engage in profiling as defined in chapter 80H.

17 2. The data compiled pursuant to chapter 80H is admissible  
18 in pattern and practice disparate treatment profiling cases,  
19 in disparate impact profiling cases, or individual cases under  
20 chapter 216.

21 3. The law enforcement activities described in section  
22 80H.3 do not constitute an unfair or discriminatory practice.

23 Sec. 16. NEW SECTION. 321.182A **Application for driver’s**  
24 **license or nonoperator’s identification card — race, ethnicity,**  
25 **and primary language.**

26 1. The department shall request a person who applies for a  
27 driver’s license or nonoperator’s identification card or for  
28 renewal of a driver’s license or nonoperator’s identification  
29 card to disclose and specify the person’s race, ethnicity, and  
30 primary language, each of which may be disclosed and specified  
31 at the person’s discretion.

32 2. Prior to January 15, 2022, and prior to January 15 of  
33 each year thereafter, the department shall submit a report  
34 to the general assembly detailing the number of driver’s  
35 license and nonoperator’s identification card holders who have

1 disclosed and specified a race, ethnicity, or primary language  
2 pursuant to subsection 1.

3 3. The department shall electronically maintain as part of  
4 a person's record the race, ethnicity, and primary language  
5 information obtained by the department, but shall not include  
6 such information on the face or in any machine-readable  
7 portion of the person's driver's license or nonoperator's  
8 identification card. Race, ethnicity, and primary language  
9 information collected by the department shall be considered  
10 confidential information and is not a public record or  
11 otherwise subject to disclosure under chapter 22. The  
12 department shall not release race, ethnicity, and primary  
13 language information collected under this section except to any  
14 of the following:

15 a. The attorney general for use in the administration of  
16 chapter 80H.

17 b. The community policing advisory board established in  
18 chapter 80H.

19 c. The Iowa civil rights commission.

20 d. The state court administrator for use in carrying out the  
21 administrator's functions as permitted by law.

22 e. The division of criminal and juvenile justice planning of  
23 the department of human rights for use in research activities  
24 and in producing statistical reports and analysis as permitted  
25 by law.

26 4. For the collection of race, ethnicity, and primary  
27 language information pursuant to this section, the department  
28 shall follow, to the extent practicable, the race and ethnicity  
29 categories, descriptors, or standards utilized by the United  
30 States census bureau.

31 Sec. 17. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
32 3, shall not apply to this Act.

33 Sec. 18. EFFECTIVE DATE. This Act takes effect October 1,  
34 2020.

35

EXPLANATION



1           The inclusion of this explanation does not constitute agreement with  
2           the explanation's substance by the members of the general assembly.

3       This bill relates to law enforcement profiling by  
4 standardizing collection and centralizing the compilation  
5 and reporting of officer stop and compliant data, providing  
6 for officer training, creating a community policing advisory  
7 board, and providing for penalties and remedies, and includes  
8 effective date provisions.

9       LAW ENFORCEMENT OFFICER TRAINING. The bill provides that  
10 the minimum course study requirements, minimum basic training  
11 requirements, and in-service training requirements established  
12 by the Iowa law enforcement academy shall include a course  
13 relating to the prevention of profiling.

14       DEFINITIONS. The bill defines "officer" to mean a peace  
15 officer, as defined in Code section 801.4, including while  
16 employed off-duty by a private employer and in uniform, but  
17 does not include a probation or parole officer.

18       The bill defines "law enforcement activities" to mean  
19 traffic, bicyclist, or pedestrian stops by an officer; and  
20 actions during a stop, including asking questions, frisks,  
21 consensual and nonconsensual searches of an individual or any  
22 property, seizing any property, removing occupants from a motor  
23 vehicle during a traffic stop, issuing a warning or citation,  
24 and making an arrest. "Law enforcement activities" do not  
25 include road blocks, vehicle check points, and security checks  
26 where every person seeking to enter a venue or facility is  
27 subject to detention, questioning, or a search of a person or  
28 property, and responses to appeals for service.

29       The bill defines "profiling" to mean a stop by an officer  
30 of a driver or passenger, a bicyclist, or a pedestrian for an  
31 alleged violation of the law, to allow the officer to then  
32 question and probe for information that might suggest the  
33 person has committed some not apparent or yet to be identified  
34 law violation. A stop shall be considered a pretextual stop  
35 under the following circumstances: when the race, color,

1 ethnicity, religion, or national origin of the person stopped  
2 was considered or relied upon or a motivating factor in making  
3 the decision to make a racially discriminatory stop; or when  
4 the officer prolonged the stop beyond the amount of time when  
5 the law enforcement tasks tied to the alleged violation are or  
6 reasonably should have been completed.

7 The bill defines "disparate treatment" to mean differential  
8 treatment of a person on the basis of race, color, ethnicity,  
9 religion, or national origin.

10 The bill defines "pretextual stop" to mean a stop by an  
11 officer of a driver or passenger, a bicyclist, or a pedestrian  
12 for an alleged violation of the law, to allow the officer to  
13 then question and probe for information that might suggest the  
14 person had committed some not apparent or yet to be identified  
15 law violation.

16 The bill defines a "discriminatory pretextual stop" to  
17 mean a stop involving disparate treatment by the officer or a  
18 stop for which the person's race, color, ethnicity, religion,  
19 or national origin was considered or relied upon or was a  
20 motivating factor in the officer's decision to make the stop  
21 or to take other action during the stop, including a request  
22 to consent to a search. It is not a discriminatory pretextual  
23 stop when an officer bases the officer's decision to make a  
24 stop on a specific suspect description-based identification  
25 that includes in the suspect's identification one or more  
26 of the personal characteristics or traits of race, color,  
27 ethnicity, religion, or national origin. However, a specific  
28 suspect description-based identification only provides probable  
29 cause or reasonable suspicion to stop a person who reasonably  
30 resembles the person described in that identification, and does  
31 not allow an officer to stop a person merely because the person  
32 is of the same race, color, ethnicity, religion, or national  
33 origin as the suspect.

34 PROFILING. The bill prohibits an officer from engaging  
35 in profiling in the course of performing law enforcement

1 activities. It is not profiling under the following  
2 circumstances: when a law enforcement agency's policy allowing  
3 the use of information that has been provided by a victim  
4 describing the personal identifying characteristics of an  
5 alleged perpetrator; an action by an officer that relies  
6 upon personal identifying information, a specific suspect  
7 description-based identification, a person's observed behavior,  
8 and other trustworthy information, except such information  
9 only provides probable cause or reasonable suspicion to stop  
10 a person who reasonably resembles the person described in  
11 that identification; and a traffic stop when directed at the  
12 traffic-related mission, namely, checking driver's license,  
13 vehicle registration, insurance or financial responsibility,  
14 outstanding warrants, and issuing citations or preparing  
15 warnings, except the authority for a traffic stop ends when  
16 the officer's tasks tied to the traffic infraction that is  
17 the basis for the stop are or reasonably should have been  
18 completed.

19 COMMUNITY POLICING ADVISORY BOARD. The bill requires the  
20 attorney general to establish a community policing advisory  
21 board for the purpose of recognizing and promoting awareness of  
22 profiling by law enforcement, providing advice in development  
23 of best practices to prevent profiling, and monitoring  
24 implementation of best practices in the field. In establishing  
25 the board, the bill requires the attorney general to ensure  
26 that the board is racially and ethnically diverse and gender  
27 balanced. The bill specifies that the attorney general shall  
28 also provide or arrange for the staff necessary to assist the  
29 board.

30 The bill provides that the community policing advisory  
31 board shall consist of 16 voting members and four ex officio,  
32 nonvoting members. The attorney general shall appoint the  
33 following nine board members: four representatives from  
34 community organizations historically associated with efforts  
35 to eliminate racial discrimination, of whom one representative

1 shall be at least 16 years of age but not more than 24 years  
2 of age at the time of appointment; three representatives from  
3 advocacy groups that support individuals who have experienced  
4 discrimination based on race, color, ethnicity, religion, or  
5 national origin; and two clergy members who have significant  
6 experience in addressing and reducing racial discrimination and  
7 other biases.

8 The bill specifies that the following individuals shall also  
9 serve on the community policing advisory board: the attorney  
10 general or the attorney general's designee, the director of  
11 the department of public safety, the director of the Iowa law  
12 enforcement academy, the state public defender or the state  
13 public defender's designee, the director of the Iowa civil  
14 rights commission, the president of the board of directors of  
15 the Iowa police chiefs association or the president's designee;  
16 and the president of the Iowa state sheriffs' and deputies'  
17 association or the president's designee.

18 The bill specifies that the board shall also include four  
19 members of the general assembly who shall serve as ex officio,  
20 nonvoting members, with one member each appointed by the  
21 majority leader of the senate, the minority leader of the  
22 senate, the speaker of the house of representatives, and the  
23 minority leader of the house of representatives.

24 The board members generally serve staggered four-year terms.

25 The bill provides that the members of the board shall only  
26 receive reimbursement for actual expenses for performance of  
27 their official duties as members of the board.

28 The bill specifies that the board shall be subject to the  
29 provisions of Code chapters 21 (open meetings) and 22 (open  
30 records).

31 BOARD ACTIONS REQUIRED BY APRIL 1, 2021. The bill requires  
32 the board to develop a standard notice form to be provided  
33 to each individual stopped by an officer, when practicable,  
34 informing the individual of the individual's right to file  
35 a complaint with the Iowa civil rights commission if the

1 individual believes that the individual has been a victim of  
2 profiling.

3 The bill provides that the board shall advise the attorney  
4 general when developing rules for the collection, compilation,  
5 and reporting of traffic, bicycle, and pedestrian stop data  
6 to ensure the use of uniform reporting practices across all  
7 reporting law enforcement agencies.

8 The bill requires the board to approve rules prior to their  
9 adoption by the department of justice pursuant to Code chapter  
10 17A.

11 BOARD ACTION REQUIRED BY JULY 1, 2022, AND EVERY YEAR  
12 THEREAFTER. The bill provides that the board shall annually do  
13 the following: evaluate and comment upon the data compiled and  
14 reported to the attorney general by law enforcement agencies  
15 and the analysis of the data by the division of criminal and  
16 juvenile justice planning of the department of human rights;  
17 assess the collection, compilation, and reporting of stop  
18 data compiled by law enforcement agencies, assess the law  
19 enforcement training requirement, and determine if these  
20 requirements are effective; work in partnership with state and  
21 local law enforcement agencies to review and analyze profiling  
22 across geographic areas of the state; consult available  
23 evidence-based research on intentional and implicit biases,  
24 and the impact on law enforcement stop, search, and seizure  
25 tactics; issue an annual report that provides the board's  
26 analysis of the past and current status of profiling across  
27 the state; and make policy recommendations for eliminating  
28 profiling.

29 The bill also requires the board to hold at least three  
30 annual public meetings to discuss profiling and potential  
31 reforms to prevent profiling.

32 NOTICE ABOUT FILING PROFILING COMPLAINT. The bill requires  
33 a law enforcement agency to require, when practicable, each  
34 officer who makes a stop to provide to each individual stopped  
35 a standard notice form, developed by the community policing

1 advisory board, that discloses the individual's right to file  
2 a complaint with the Iowa civil rights commission if the  
3 individual believes that profiling has occurred.

4 DATA COLLECTED, COMPILED, AND REPORTED BY A LAW ENFORCEMENT  
5 AGENCY. The bill requires that each state and local law  
6 enforcement agency shall annually submit to the department of  
7 justice, no later than December 31 of each year, the agency's  
8 current policies that address profiling, and the agency shall  
9 post and maintain the current policy on the internet site of  
10 the agency. The bill requires that each law enforcement agency  
11 collect, compile, and report annually to the department of  
12 justice the following information related to stops including  
13 stops that involve questioning, driver's license and vehicle  
14 registration checks that do not result in a citation or  
15 warning: the time, date, location, and duration of the stop;  
16 the reason for the stop; the results of the stop; the warning  
17 given or citation issued, if applicable; the offense the  
18 individual was arrested for, if applicable; the identifying  
19 characteristics of the individual stopped, including perceived  
20 race, ethnicity, English language proficiency, sex, and  
21 approximate age; and the actions taken by the officer during  
22 the stop. The actions to be reported include but are not  
23 limited to the following: whether the officer asked for  
24 consent to search the person and whether consent was provided;  
25 whether the officer searched the individual or any property,  
26 and if a search was performed, the basis for the search;  
27 whether the officer seized any property, and a description  
28 of the property that was seized and the basis for seizing  
29 the property; whether the officer used physical force or  
30 physical force was used against the officer; and any additional  
31 information which the officer or law enforcement agency  
32 considers appropriate.

33 The bill provides that the attorney general, in consultation  
34 with the division of criminal and juvenile justice of the  
35 department of human rights, the board, and law enforcement

1 agencies, shall develop a uniform standardized form for each  
2 law enforcement agency to use in collecting, compiling, and  
3 reporting the information required to be reported.

4 The bill provides that each state law enforcement agency  
5 and the local law enforcement agencies in the state with  
6 jurisdiction over 50,000 residents shall submit the agency's  
7 first report on or before January 1, 2022. The local law  
8 enforcement agencies in the state with jurisdiction over 25,000  
9 residents but not more than 50,000 residents shall submit  
10 the agency's first report on or before January 1, 2023. The  
11 remaining local law enforcement agencies shall submit the  
12 agency's first report on or before January 1, 2024.

13 The bill provides that a law enforcement agency shall not  
14 grant access to personal identifying information contained  
15 in the data collected by the law enforcement agency to any  
16 individual except to a federal, state, local, or tribal  
17 government employee or agent who requires access to such  
18 information in order to fulfill the purposes of the bill.  
19 However, the bill provides that a law enforcement agency  
20 may permit a contractor or nongovernmental agent access to  
21 personal identifying information that is contained in the data  
22 collected, if the contractor or nongovernmental agent signs an  
23 agreement which prohibits further disclosure of the personal  
24 identifying information beyond disclosure to the contractor or  
25 nongovernmental agent.

26 DATA COMPILED BY THE DIVISION OF CRIMINAL AND JUVENILE  
27 JUSTICE PLANNING. The bill requires the attorney general, in  
28 consultation with the community policing advisory board and the  
29 Iowa civil rights commission, and with input from stakeholders  
30 including federal, state, and local law enforcement agencies,  
31 local communities, researchers, and civil rights organizations,  
32 to adopt rules pursuant to Code chapter 17A for law enforcement  
33 agency collection and compilation of law enforcement activities  
34 related to traffic, bicycle, or pedestrian stops, and citizen  
35 complaints. The rules adopted under the bill shall do the

1 following: require each law enforcement agency to collect  
2 and compile data as required under the bill; require each law  
3 enforcement agency to prominently publicize the compiled data  
4 on the law enforcement agency's internet site; require each law  
5 enforcement agency to maintain all data collected, compiled,  
6 and reported under the bill for at least 15 years; and provide  
7 for the protection and privacy of any personal identifying  
8 information about the officer or the individual stopped that is  
9 contained in the collected and compiled data.

10 The bill requires the division of criminal and juvenile  
11 justice planning of the department of human rights to in turn  
12 compile the data collected from law enforcement agencies for  
13 analysis. The bill specifies that the division shall analyze  
14 the data provided. The bill further requires the division  
15 to provide the compiled data and analysis to the community  
16 policing advisory board, the Iowa civil rights commission, the  
17 department of justice, and the public.

18 TRAINING GUIDELINES. The bill provides that the director  
19 of the Iowa law enforcement academy, subject to the approval  
20 of the Iowa law enforcement academy council, shall develop  
21 and disseminate training guidelines and best practices to  
22 reduce and eliminate profiling. In developing the training  
23 guidelines and best practices, the director shall consult with  
24 the department of justice, the community policing advisory  
25 board, the Iowa civil rights commission, and the division of  
26 criminal and juvenile justice planning, with opportunity for  
27 input from federal, state, and local law enforcement agencies,  
28 civil rights organizations, and persons having an interest and  
29 expertise in the field of cultural awareness and diversity.

30 STATUTORY REMEDIES. The bill provides that the remedies  
31 authorized in the bill are not exclusive and do not foreclose  
32 an individual from asserting any remedies the individual may  
33 have based on the common law or other statutes.

34 UNFAIR EMPLOYMENT PRACTICES — RETALIATION — PENALTIES.  
35 The bill provides that it shall be an unfair discriminatory



1 practice under the Iowa civil rights Act, Code chapter 216,  
2 for a peace officer to engage in profiling described in the  
3 bill. The bill also specifies certain behaviors that do  
4 not constitute an unfair discriminatory practice. The bill  
5 provides that it is an unfair or discriminatory practice for  
6 an employer or the employees of the employer to discriminate  
7 against another employee because the employee makes a charge,  
8 testifies against, assists, or participates in any manner in  
9 an investigation, proceeding, or hearing related to profiling.  
10 The bill specifies that it shall be an unlawful employment  
11 practice under the Iowa civil rights Act, Code chapter 216, for  
12 an employer or the employees, or other agents, to discriminate  
13 against an employee because of the employee's opposition to  
14 profiling, or because the officer made a charge, testified  
15 against, assisted, or participated in any manner in an  
16 investigation, proceeding, or hearing related to profiling.

17 The bill specifies that an officer or an employee of a  
18 law enforcement agency who retaliates against an officer or  
19 employee for making a charge, testifying against, assisting, or  
20 participating in any manner in an investigation, proceeding, or  
21 hearing related to profiling shall be subject to discipline,  
22 including dismissal.

23 USE OF DATA IN DISPARATE TREATMENT AND DISPARATE IMPACT  
24 CASES. The bill specifies that data compiled pursuant to the  
25 bill is admissible in individual and pattern and practice  
26 disparate treatment profiling cases and in disparate impact  
27 profiling cases under the Iowa civil rights Act.

28 DRIVER'S LICENSE AND NONOPERATOR'S IDENTIFICATION. The bill  
29 provides that the department of transportation shall request  
30 a person who applies for a driver's license or nonoperator's  
31 identification card or for renewal of a driver's license or  
32 nonoperator's identification card to disclose and specify the  
33 person's race, ethnicity, and primary language, each of which  
34 may be disclosed and specified at the person's discretion.

35 Under the bill, prior to January 15, 2022, and prior

1 to January 15 of each year thereafter, the department of  
2 transportation shall submit a report to the general assembly  
3 detailing the number of driver's license and nonoperator's  
4 identification card holders who have disclosed and specified a  
5 race, ethnicity, or primary language.

6 The bill provides that the department shall electronically  
7 maintain as part of a person's record the race, ethnicity,  
8 and primary language information obtained by the department,  
9 but shall not include such information on the face or in any  
10 machine-readable portion of the person's driver's license or  
11 nonoperator's identification card.

12 The department of transportation shall not release race,  
13 ethnicity, and primary language information collected under  
14 this Code section except to any of the following: the  
15 department of justice, the community policing advisory  
16 board, the Iowa civil rights commission, the state court  
17 administrator, and the division of criminal and juvenile  
18 justice planning of the department of human rights for use in  
19 research activities and in producing statistical reports and  
20 analysis as permitted by law.

21 STATE MANDATE. The bill may include a state mandate as  
22 defined in Code section 25B.3. The bill makes inapplicable  
23 Code section 25B.2, subsection 3, which would relieve a  
24 political subdivision from complying with a state mandate if  
25 funding for the cost of the state mandate is not provided or  
26 specified. Therefore, political subdivisions are required to  
27 comply with any state mandate included in the bill.

28 EFFECTIVE DATE. The bill takes effect on October 1, 2020.