

Racial and Biased-Based Policing

SB 93 prohibits a law enforcement officer from using racial or other biased-based policing, allows community advisory boards to be established, and requires written policies and annual reports, data collection, and procedures for the investigation and disposition of a racial or other biased-based policing complaint.

Racial or other biased-based policing is defined as the unreasonable use of race, ethnicity, national origin, gender, or religion by a law enforcement officer in deciding to initiate an enforcement action. Enforcement action is defined as making a probable cause or reasonable suspicion determination in certain situations involving nonconsensual contact with an individual or individuals. The bill provides that it would not be racial or other biased-based policing if used in combination with other identifying factors as part of a specific individual's description to initiate an enforcement action. In addition, the bill makes it unlawful to use racial or other biased-based policing, among other things, in determining the existence of probable cause to conduct a search of an individual or a conveyance.

The bill requires law enforcement agencies to adopt a written policy to preempt racial or other biased-based policing and to clearly define acts constituting racial and other biased-based policing using language recommended by the Attorney General. The written policies would have to include training and distance learning training technology. The law enforcement agency may appoint an advisory board of not less than five persons representing law enforcement, as well as community and educational leaders, to recommend and review appropriate training curricula.

Under the bill, a law enforcement agency of a governing body in any city or county that established a community advisory board is required to use the board, which is composed of individuals to advise and assist in policy development, education and community outreach, and communications related to racial or other biased-based policing. Provisions for community outreach and communication efforts are required to inform the public of an individual's right to file complaints. The community advisory boards are required to receive training on fair and impartial policing by a law enforcement agency.

The governing body of a city or the sheriff of a county could develop a comprehensive plan in conjunction with a community advisory board, if one exists, that prevents racial or other biased-based policing, or may require the law enforcement agency of such city or county to collect specific traffic stop data and make the data available to the public. Data collection would allow a law enforcement agency to select specific information dealing with every traffic stop.

A law enforcement agency is required to submit by July 31 an annual report to the Attorney General's Office which would be posted on the Attorney General's website. The

report would include, among other things, the number, action and disposition of complaints filed, and whether the agency has a comprehensive plan or compiles traffic or pedestrian stop data.

The bill amends the procedure for complaints regarding racial or other biased-based policing by providing that the Office of the Attorney General reviews and, if necessary, investigates such complaints. The Attorney General can then find if there was insufficient evidence to support a complaint or forward the complaint for further review and possible action to the Commission on Peace Officers' Standards and Training (CPOST). The Attorney General is required to notify the accused officer and the head of the officer's agency within ten days of receiving the complaint.

The bill repeals KSA 22-4604, which established a system to collect and report statistics relating to race, ethnicity, gender, age, and residency of those individuals who come in contact with law enforcement activities.