

22-4606. Racial and other profiling; definitions. As used in this act:

(a) "Governmental unit" means the state, or any county, city or other political subdivision thereof, or any department, division, board or other agency of any of the foregoing.

(b) "Law enforcement agency" means the governmental unit employing the law enforcement officer.

(c) "Law enforcement officer" has the meaning ascribed thereto in K.S.A. 74-5602, and amendments thereto.

(d) "Racial profiling" means the practice of a law enforcement officer or agency relying, as the sole factor, on race, ethnicity, national origin, gender or religious dress in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity. Racial profiling does not include reliance on such criteria in combination with other identifying factors when the law enforcement officer or agency is seeking to apprehend a specific suspect whose race, ethnicity, national origin, gender or religious dress is part of the description of the suspect.

(e) "Routine investigatory activities" includes, but is not limited to, the following activities conducted by law enforcement officers and agencies in conjunction with traffic stops: (1) Frisks and other types of body searches, and (2) consensual or nonconsensual searches of persons or possessions, including vehicles, dormitory rooms, school lockers, homes and apartments.

(f) "Collection of data" means that information collected by Kansas law enforcement officers after each traffic [stop].

History: L. 2005, ch. 159, § 1; July 1.

22-4607. Same; task force; review of and recommendations on policies and procedures. [(a)] A 15-member task force on racial profiling shall be appointed by the governor. The task force shall include representatives of the Kansas attorney general's office, the Kansas highway patrol, city and county law enforcement agencies, the Hispanic and Latino American affairs commission, the advisory commission on African-American affairs, the department of revenue, Kansas human rights commission, Kansas district courts, Kansas civil rights advocates and others who can assist in the performance of the functions of the task force.

(b) The governor's task force on racial profiling shall work in partnership with local and state law enforcement agencies to review current policies and make recommendations for future policies and procedures statewide for the full implementation of the provisions of K.S.A. 2006 Supp. 22-4606 through 22-4611, and amendments thereto. The task force shall hold public hearings and meetings as needed to involve and inform the public on issues related to racial profiling.

(c) Members of the task force serving on the effective date of this act shall continue to serve terms until July 1, 2007. Thereafter, members shall be appointed for terms of two years. Vacancies shall be filled by appointment for the unexpired term. Upon expiration of a member's term, the member shall serve until a successor is appointed and qualifies. No member shall serve more than two consecutive full terms.

(d) The chairperson of the task force shall be designated by the governor. The task force shall meet at the call of the chairperson at least quarterly or as often as necessary to carry out the functions of the task force.

(e) The staff of the Kansas advisory commission on African-American affairs and the Kansas Hispanic/Latino American affairs commission shall provide administrative support to the task force and its chairperson.

(f) Members of the task force attending a meeting of the task force, or any subcommittee meeting authorized by the task force, shall receive amounts provided for in subsection (e) of K.S.A. 75-3223, and amendments thereto.

(g) The task force shall make a report of its activity to the public each calendar year.

(h) The provisions of this section shall expire on July 1, 2009.

History: L. 2005, ch. 159, § 2; L. 2006, ch. 179, § 1; May 25.

22-4608. Same; unlawful for law enforcement to engage in. It shall be unlawful for any law enforcement officer or any law enforcement agency to engage in racial profiling.

History: L. 2005, ch. 159, § 3; July 1.

22-4609. Same; prohibited as sole basis for making stop or arrest. The race, ethnicity, national origin, gender or religious dress of an individual or group shall not be the sole factor in determining the existence of probable cause to take into custody or to arrest an individual or in constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a vehicle.

History: L. 2005, ch. 159, § 4; July 1.

22-4610. Same; policies preempting profiling, requirements; annual reports of complaints. (a)

All law enforcement agencies in this state shall adopt a detailed, written policy to preempt racial profiling. Each agency's policy shall include the definition of racial profiling found in K.S.A. 2006 Supp. 22-4606, and amendments thereto.

(b) Policies adopted pursuant to this section shall be implemented by all Kansas law enforcement agencies within one year after the effective date of this act. The policies and data collection procedures shall be available for public inspection during normal business hours.

(c) The policies adopted pursuant to this section shall include, but not be limited to, the following:

(1) A prohibition of racial profiling.

(2) Annual educational training which shall include, but not be limited to, an understanding of the historical and cultural systems that perpetuate racial profiling, assistance in identifying racial profiling practices, and providing officers with self-evaluation strategies to preempt racial profiling prior to stopping a citizen.

(3) For law enforcement agencies of cities of the first class, establishment or use of current independent citizen advisory boards which include participants who reflect the racial and ethnic community, to advise and assist in policy development, education and community outreach and communications related to racial profiling by law enforcement officers and agencies.

(4) Policies for discipline of law enforcement officers and agencies who engage in racial profiling.

(5) A provision that, if the investigation of a complaint of racial profiling reveals the officer was in direct violation of the law enforcement agency's written policies regarding racial profiling, the employing law enforcement agency shall take appropriate action consistent with applicable laws, rules and regulations, resolutions, ordinances or policies, including demerits, suspension or removal of the officer from the agency.

(6) Provisions for community outreach and communications efforts to inform the public of the individual's right to file with the law enforcement agency or the Kansas human rights commission complaints regarding racial profiling, which outreach and communications to the community shall include ongoing efforts to notify the public of the law enforcement agency's complaint process.

(7) Procedures for individuals to file complaints of racial profiling with the agency, which, if appropriate, may provide for use of current procedures for addressing such complaints.

(d) Each law enforcement agency shall compile an annual report of all complaints of racial profiling received and shall submit the report on or before January 31 to the office of the attorney general for review. The annual report shall include: (1) The date the complaint is filed; (2) action taken in response to the complaint; (3) the decision upon disposition of the complaint; and (4) the date the complaint is closed. Annual reports filed pursuant to this subsection shall be open public records and shall be posted on the official website of the attorney general.

History: L. 2005, ch. 159, § 5; July 1.

22-4611. Same; complaints, procedure; civil action. (a) Any person who believes such person has been subjected to racial profiling by a law enforcement officer or agency may file a complaint with the law enforcement agency. The complainant may also file a complaint with the Kansas human rights commission. The commission shall review and, if necessary, investigate the complaint. The commission's designee shall consult with the head of the law enforcement agency before making final recommendations regarding discipline of any law enforcement officer or other disposition of the complaint.

(b) Upon disposition of a complaint as provided for in subsection (a) the complainant shall have a civil cause of action in the district court against the law enforcement officer or law enforcement agency, or both, and shall be entitled to recover damages if it is determined by the court that such persons or agency engaged in racial profiling. The court may allow the prevailing party reasonable attorney fees and court costs. **History:** L. 2005, ch. 159, § 6; July 1.