

SECOND REGULAR SESSION

# HOUSE BILL NO. 1890

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DOGAN.

5449H.01I

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 590.650, RSMo, and to enact in lieu thereof ten new sections relating to fair and impartial policing.

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

Section A. Section 590.650, RSMo, is repealed and ten new sections enacted in lieu thereof, to be known as sections 590.1050, 590.1052, 590.1054, 590.1056, 590.1058, 590.1060, 590.1062, 590.1064, 590.1066, and 590.1068 to read as follows:

**590.1050. The provisions of sections 590.1050 to 590.1068 shall be known and may be cited as the "Fair and Impartial Policing Act". As used in sections 590.1050 to 590.1068, the following terms mean:**

(1) "Benchmark," the percentage of a given population within a larger population, including residential, driving, or some other measured population;

(2) "Biased policing," occurs in circumstances where police actions are substantially based on the race, ethnicity, gender, age, sexual orientation, religious beliefs, disabilities, English language proficiency, or national origin of a person, rather than upon lawful and appropriate police procedures based on observed behavior or facts. This does not include investigations of alleged crimes where law enforcement must seek out suspects who match a specifically delineated description;

(3) "Contraband," illegal drugs, guns, or some other object that may warrant an arrest;

(4) "Disparity index," the rate of any given activity such as stops, searches, or arrests for a given population as compared to the benchmark for that population;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           **(5) "Hit rate,"** the rate of searches in which law enforcement finds contraband.  
17   The hit rate is calculated by dividing the number of searches that yield contraband by the  
18   total number of searches;

19           **(6) "Law enforcement activity,"** the following activities by law enforcement:

20           **(a) Traffic stops;**

21           **(b) Pedestrian stops;**

22           **(c) Consensual or nonconsensual frisks or pat downs;**

23           **(d) Consensual or nonconsensual searches of persons, property, or possessions,**  
24   **including vehicles;**

25           **(7) "Law enforcement officer,"** a peace officer as defined in this chapter who is  
26   employed by the state of Missouri or any county or locality within the state of Missouri;

27           **(8) "Minority group,"** individuals of Black or African American, Hispanic or  
28   Latino, American Indian or Alaska Native, Asian, or Multiracial descent;

29           **(9) "Pedestrian stops",** any stops of individuals in public spaces where a law  
30   enforcement officer stops, frisks, or questions a person based upon a claim by law  
31   enforcement of reasonable suspicion of unlawful activity.

590.1052. Every person employed by a law enforcement agency within the state of  
2   Missouri, including civilian employees and parties contracted by a law enforcement agency,  
3   is prohibited from engaging in biased policing as defined in section 590.1050.

590.1054. 1. Each time a law enforcement officer stops a driver of a motor vehicle  
2   or completes a pedestrian stop, that officer shall report the following information to the  
3   law enforcement agency that employs the officer:

4           **(1) The perceived race, gender, sexual orientation, religion, disability, English**  
5   **language proficiency, or national origin of the individual stopped;**

6           **(2) The time, date, location, and duration of the stop;**

7           **(3) Whether the person stopped resides in the jurisdiction in which such person was**  
8   **stopped;**

9           **(4) The violations alleged to have been committed that led to the stop;**

10           **(5) Whether a search was conducted as a result of the stop and the probable cause**  
11   **or authority for the search including, but not limited to, consent, inventory, drug or alcohol**  
12   **odor, incident to arrest for an outstanding warrant, incident to arrest for another charge,**  
13   **plain-view contraband, reasonable suspicion-weapon, drug-dog alert, or advanced**  
14   **technology;**

15           **(6) Whether a frisk or pat down was conducted as a result of the stop;**

16       **(7) If a search was conducted, whether the individual consented to the search, the  
17 probable cause for the search, whether the person was searched, whether the person's  
18 property was searched, and the duration of the search;**

19       **(8) If a search was of a passenger in the vehicle, the perceived race, gender, sexual  
20 orientation, religion, disability, English language proficiency, or national origin of the  
21 passenger;**

22       **(9) Whether any contraband was discovered in the course of the search, the type  
23 of any contraband discovered, and the amount;**

24       **(10) Whether canine units or advanced technology were involved in the search;**

25       **(11) Whether any warning or citation was issued as a result of the stop;**

26       **(12) If a warning or citation was issued, the violation charged, or warning  
27 provided;**

28       **(13) Whether any physical force was used by and against law enforcement officer  
29 or officers and, if so, to what extent;**

30       **(14) Whether an arrest was made as a result of either the stop or the search; and**

31       **(15) If an arrest was made, the crime charged.**

32       **2. Law enforcement officers shall report to their agency the information from  
33 subsection 1 of this section using a format determined by the Missouri Department of  
34 Public Safety.**

35       **3. Law enforcement agencies shall:**

36       **(1) Compile data on the standardized form determined by the Missouri Attorney  
37 General and submit the form to the attorney general's office by March first of each year;**

38       **(2) Update the compiled data and conspicuously publicize the data on the respective  
39 law enforcement agency's website on a monthly basis;**

40       **(3) Maintain all data collected under sections 590.1050 to 590.1068 for not less than  
41 four years;**

42       **(4) Provide for the protection of the privacy of individuals whose data is collected  
43 by not providing to the public individual names and identifying information regarding the  
44 particular law enforcement officers who made the stops and the pedestrians, drivers, and  
45 passengers who were stopped.**

590.1056. 1. The attorney general shall analyze the annual reports of law  
enforcement agencies required under section 590.1054 and submit a report of the findings  
to the governor, the general assembly, and each law enforcement agency no later than June  
first of each year.

5       **2. The data analysis shall be completed using best practices and include meaningful  
6 benchmarks as appropriate for the type of population and appropriate for the geographic  
7 areas being analyzed, against which data shall be measured, which may include:**

8           **(1) Using race-specific and ethnicity-specific data about the residential population;  
9           (2) Using a race-specific and ethnicity-specific spatial weighting data analysis tool;  
10          (3) Using race-specific and ethnicity-specific data about traffic accidents in which  
11 the driver is not found to be at fault;**

12          **(4) Using race-specific and ethnicity-specific data from observational surveys of  
13 motorists;**

14          **(5) Using information about the residency of individuals stopped gathered by  
15 officers. This analysis shall be used only in addition to the one or more of the benchmarks  
16 listed in this section; or**

17          **(6) Using a combination of the above listed benchmark measures.**

18       **3. The report of the attorney general shall include statewide and agency-specific  
19 analyses of at least the following information:**

20           **(1) The total number of vehicle and pedestrians stopped by law enforcement  
21 officers during the previous calendar year;**

22           **(2) The number of vehicle and pedestrian stops, broken down by the racial or  
23 ethnic group, meaning White, Black or African American, Hispanic or Latino, American  
24 Indian or Alaska Native, Asian, Multiracial, or other or unknown;**

25           **(3) The number of vehicle stops that resulted in a search, broken down by the  
26 probable cause or authority for the search and by the driver's racial or ethnic group;**

27           **(4) The number of pedestrian stops that resulted in either a frisk or pat down or  
28 search, broken down by racial or ethnic group;**

29           **(5) The disparity index regarding stopped pedestrians and drivers for each racial  
30 or ethnic group, as determined using the benchmark measures listed in subsection 2 of this  
31 section;**

32           **(6) The disparity indices regarding consensual and nonconsensual searches for  
33 pedestrians and drivers subjected to stops for each racial or ethnic group, basing the  
34 benchmarks on the populations of those stopped;**

35           **(7) The disparity indices for each category of arrest for each racial or ethnic group,  
36 basing the benchmarks on the population of those stopped;**

37           **(8) The disparity indices in "pat downs" for pedestrians subject to stops for each  
38 racial or ethnic group, basing the benchmarks on the population of those stopped;**

39           **(9) A comparison of the racial or ethnic disparities in consent searches to the  
40 consent search hit rate;**

41           (10) The number and percentage of traffic stops by the type of violation cited, such  
42 as moving, equipment, license, or investigatory, broken down by racial or ethnic group;

43           (11) A comparison of the racial or ethnic disparities in hit rates for all categories  
44 of probable cause/authority to search listed in agency reports; and

45           (12) A compilation of the information reported by law enforcement agencies under  
46 section 590.1054.

590.1058. 1. Each law enforcement agency shall ensure that there is an annual  
2 review of the data collected by their officers under section 590.1054 and the annual report  
3 of the attorney general required under section 590.1056 of this section.

4           2. Such review shall determine whether individual officers in the agency or the  
5 agency as a whole have a pattern of stopping, searching, or arresting members of minority  
6 groups:

7           (1) In a number disproportionate to the population of minority groups residing,  
8 traveling, or being stopped within the jurisdiction of the law enforcement agency, using the  
9 benchmark measures described under section 590.1056;

10           (2) In a number disproportionate to similarly situated law enforcement officers;  
11 and

12           (3) Whether any peace officers of the law enforcement agency routinely stop  
13 members of minority groups for violations of vehicle laws as a pretext for investigating  
14 other violations of criminal law.

15           3. If the review reveals a pattern of disparity, either systemically or for individual  
16 officers, the agency shall require an investigation to determine whether the agency or any  
17 law enforcement officers of the agency routinely engage in biased policing. The review  
18 shall examine factors that might be a contributing factor to the disparity including, but not  
19 limited to:

20           (1) Situations in which matters of fact establish that the officers are acting in a  
21 bias-free manner, such as hit rates that confirm that officer suspicions were accurate,  
22 investigations in which suspects were clearly identified without regard to minority status  
23 before the stop as being involved in criminal activity, and radar stops on an interstate;

24           (2) Unclear or misunderstood policies;

25           (3) Unclear instructions from supervisors; and

26           (4) Training that has failed to teach the required skill.

27           4. The agency shall issue a report to the public explaining the results of the  
28 investigation, including whether some results establish that some disproportions are caused  
29 by factors other than officer bias.

30        5. The agency shall correct any problems revealed by the review and the  
31 investigation and provide for appropriate counseling and training of any law enforcement  
32 officer found to have engaged in biased policing within ninety days of the review. The  
33 officer shall be removed from patrol duties until completion of training and counseling.

34        6. Officers who persist in biased policing or show a pattern of biased policing shall  
35 be subject to discipline, which may include dismissal and loss of POST certification as  
36 provided under section 590.1064.

2        **590.1060. Each law enforcement agency or department shall promulgate internal  
policies, including:**

3            (1) A stated prohibition of biased policing;  
4            (2) Provisions for training on biased policing as provided under section 590.1064;  
5            (3) Procedures aimed at decreasing bias in policing in the administration of consent  
6 searches, which shall include the following provisions:

7            (a) A law enforcement officer shall only seek consent to search when he or she has  
8 reasonable suspicion based on specific, articulated facts for conducting such search;

9            (b) The law enforcement officer shall document in writing such specific, articulable  
10 facts about the individual involved for conducting a consent search;

11            (c) The written documentation shall also include the results of the search;

12            (d) Prior to conducting a consensual search of a person or the person's effects, a  
13 law enforcement officer shall articulate in plain language that the person is being asked to  
14 voluntarily consent to a search and the person has the right to refuse the request to search;

15            (e) After providing such advisement, a law enforcement officer shall request, in  
16 plain language, that the person subject to the search provide voluntary written consent to  
17 the search;

18            (f) Whether the person subject to search provides written consent, a law  
19 enforcement officer may conduct the search if the person provided voluntary consent in  
20 a form other than in writing;

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

23            (h) Nothing contained in this subdivision shall be construed to preclude any search  
24 otherwise based upon any legally sufficient cause;

25            (4) Procedures for requesting personal information from drivers or pedestrians  
26 during a stop, including:

27            (a) When the motor vehicle has been stopped solely for a traffic violation, a law  
28 enforcement officer may only request the following documentation from drivers of motor  
29 vehicles:

30           **a. A driver's license or other verifiable, government-issued identification, including  
31 foreign-issued identification;**

32           **b. Motor vehicle registration; and**

33           **c. Proof of insurance, unless there exists reasonable suspicion or probable cause of  
34 criminal activity;**

35           **(b) No passenger of a motor vehicle shall be requested to provide identification or  
36 any other documentation by a law enforcement officer when the motor vehicle has been  
37 stopped solely for a traffic violation, unless there exists reasonable suspicion or probable  
38 cause of criminal activity; and**

39           **(c) When a pedestrian has been stopped based on reasonable suspicion of criminal  
40 activity, a law enforcement officer may only request for purposes of identification the first,  
41 middle, and last name and address of the individual stopped.**

590.1062. Each law enforcement agency shall create a community and law  
enforcement partnership to create mutual understanding between law enforcement and  
the community about biased policing and to provide a forum for each group to listen and  
respond to the other's concerns. The partnership:

5           **(1) Shall include no less than five participants composed of representatives of law  
6 enforcement, community leaders, and educational leaders who reflect the diversity of the  
7 local community;**

8           **(2) Shall facilitate workshops and public meetings in the community on racial and  
9 other biases;**

10           **(3) May advise and assist in policy development and the training and education of  
11 law enforcement agencies on biased policing;**

12           **(4) Shall annually and formally recognize law enforcement agencies and individual  
13 officers who have demonstrated strong commitment to addressing issues of biased policing  
14 and working with the local community.**

590.1064. 1. Every person employed by a law enforcement agency within the state  
of Missouri, including civilian employees and parties contracted by a law enforcement  
agency, shall be trained on issues related to the prohibition of biased policing practices, on  
data collection and reporting methods, and on the policies mandated under section  
590.1060.

2. The Missouri Peace Officers Standards and Training (POST) Commission or its  
equivalent shall develop and disseminate guidelines and training on the subjects mandated  
in subsection 1 of this section for all law enforcement officers. All law enforcement officers  
shall adhere to the standards approved by the Missouri POST Commission and any officer

10 who shows a pattern of biased policing, as defined under section 590.1050, may lose his or  
11 her POST certification.

12       **3. The course or courses of instruction and the guidelines shall stress development**  
13 **of effective, noncombative methods of carrying out law enforcement duties in a diverse**  
14 **environment.**

15       **4. The course of basic training for law enforcement officers shall include adequate**  
16 **instruction on diverse communities in order to foster mutual respect and cooperation**  
17 **between law enforcement and members of all diverse communities.**

18       **5. Every law enforcement officer in the state shall participate in expanded training**  
19 **as prescribed and certified by the Missouri POST Commission. This training shall**  
20 **prescribe patterns, practices, and protocols that prevent biased policing. In developing and**  
21 **establishing criteria for the training, the Missouri POST Commission shall consult with**  
22 **appropriate groups and individuals having an interest and expertise in the field of biased**  
23 **policing. The course of instruction shall include, but not be limited to, adequate**  
24 **consideration of each of the following subjects:**

25           **(1) Identification of key indices and perspectives that make up differences among**  
26 **residents in a local community;**

27           **(2) Negative impact of implicit and explicit biases, prejudices, and stereotyping on**  
28 **effective law enforcement, including examination of how historical perceptions of**  
29 **discriminatory enforcement practices have harmed police or community relations;**

30           **(3) The history and the role of the civil rights movement and impact on law**  
31 **enforcement;**

32           **(4) Specific obligations of officers in preventing, reporting, and responding to**  
33 **discriminatory or biased practices by fellow officers; and**

34           **(5) Perspectives of diverse, local constituency groups and experts on particular**  
35 **cultural and police-community relations issues in a local area.**

36       **6. Once the initial expanded training is completed, each law enforcement officer in**  
37 **the state shall be required to complete a continuing education course annually.**

590.1066. 1. If an agency does not report or submits significantly incomplete  
2 reports in any year, the governor shall withhold any state funds appropriated to that  
3 agency.

4       2. If a law enforcement agency reports a motor vehicle, pedestrian stop, or consent  
5 search disparity index for any particular minority group that is one standard deviation or  
6 more above the corresponding statewide indices for that same minority group for three  
7 consecutive years, the agency shall be subject to review for a period of three years.

8       3. During the time an agency is subject to review, the agency shall provide  
9 semi-annual reports on biased policing to the attorney general, which shall include the  
10 same information required in section 590.1054 and a narrative form describing what effort  
11 or action, if any, has been taken to address any disparities in stops and searches. The  
12 report shall be a public record.

13       4. If a law enforcement agency reports a motor vehicle, pedestrian stop, or consent  
14 search disparity index for any particular minority group that is one standard deviation or  
15 more above the statewide indices in its second year of review, the attorney general shall  
16 require changes in the agency's policies and practices, including techniques for identifying  
17 problem officers, requirements that an officer's profiling statistics be a part of the record  
18 used to evaluate promotions and reassessments, training of supervisors in the skills  
19 necessary to eliminate biased policing and increasing the quality and quantity of officer  
20 training related to biased policing. The attorney general's office shall work with other  
21 state agencies to provide financial assistance and expertise to facilitate these changes.

22       5. If a law enforcement agency reports a motor vehicle, pedestrian stop, or consent  
23 search disparity index for any particular minority group that is one standard deviation or  
24 more above the statewide indices and search rates in its third year of review, in addition  
25 to loss of state funds, the POST commission, in consultation with the attorney general's  
26 office, shall review the record of the law enforcement agency during the review period to  
27 determine if the pattern of disparities is the result of low samples of statistical data or if it  
28 indicates a systemic bias or a failure to supervise of such magnitude that the law  
29 enforcement agency should be decertified. The POST commission shall take into account  
30 whether the agency is making a good faith effort to reform. If not decertified, the agency  
31 shall remain under review, with periodic POST oversight, until such time as the agency's  
32 stop and consent search disparity indices are no longer one standard deviation or more  
33 above the statewide indices.

590.1068. The director of the department of public safety may promulgate all  
2 necessary rules and regulations for the administration of sections 590.1050 to 590.1068.  
3 Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
4 under the authority delegated in this section shall become effective only if it complies with  
5 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
6 This section and chapter 536 are nonseverable, and if any of the powers vested with the  
7 general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
8 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
9 rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be  
10 invalid and void.

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

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

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

6           (2) The reasons for the stop;

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

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

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

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

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

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

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

19          (10) The location of the stop. Such information may be reported using a  
20          format determined by the department of public safety which uses existing citation  
21          and report forms.

22          3. (1) Each law enforcement agency shall compile the data described in  
23          subsection 2 of this section for the calendar year into a report to the attorney  
24          general.

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

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

29          4. (1) The attorney general shall analyze the annual reports of law  
30          enforcement agencies required by this section and submit a report of the findings  
31          to the governor, the general assembly and each law enforcement agency no later  
32          than June first of each year.

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

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

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

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

43                             (d) A compilation of the information reported by law enforcement  
44                             agencies 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 that:

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

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

60                                     (3) Provides for appropriate counseling and training of any peace officer  
61                             found to have engaged in race-based traffic stops within ninety days of the  
62                             review. The course or courses of instruction and the guidelines shall stress  
63                             understanding and respect for racial and cultural differences, and development  
64                             of effective, noncombative methods of carrying out law enforcement duties in a  
65                             racially and culturally diverse environment.

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

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

73                             8. A peace officer who stops a driver of a motor vehicle pursuant to a  
74                             lawfully conducted sobriety check point or road block shall be exempt from the  
75                             reporting requirements of subsection 2 of this section.]

