

AMENDMENTS TO LB 99

Introduced by Mello

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 20-501, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 20-501 Racial profiling is a practice that presents a
6 great danger to the fundamental principles of a democratic society.
7 It is abhorrent and cannot be tolerated. ~~Motorists who have~~ An
8 individual who has been detained or whose vehicle has been stopped
9 by the police for no reason other than the color of ~~their~~ his or
10 her skin or ~~their~~ his or her apparent nationality or ethnicity ~~are~~
11 ~~the victims~~ is the victim of a discriminatory practices- practice.

12 Sec. 2. Section 20-502, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 20-502 (1) No member of the Nebraska State Patrol or
15 a county sheriff's office, officer of a city or village police
16 department, or member of any other law enforcement agency in this
17 state shall engage in racial profiling. The disparate treatment of
18 an individual who has been detained or whose motor vehicle has
19 been stopped by a law enforcement officer is inconsistent with this
20 policy.

21 (2) Racial profiling shall not be used to justify the
22 detention of an individual or to conduct a motor vehicle stop.

23 Sec. 3. Section 20-504, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 20-504 (1) On or before January 1, ~~2002~~, 2014, the
3 Nebraska State Patrol, the county sheriffs, all city and village
4 police departments, and any other law enforcement agency in this
5 state shall adopt and provide a copy to the Nebraska Commission
6 on Law Enforcement and Criminal Justice of a written policy that
7 prohibits the detention of any person or a motor vehicle stop
8 when such action is motivated by racial profiling. Such racial
9 profiling prevention policy shall include definitions consistent
10 with section 20-503 and one or more internal methods of prevention
11 and enforcement, including, but not limited to: and the action
12 would constitute a violation of the civil rights of the person.

13 (a) Internal affairs investigation;

14 (b) Preventative measures including extra training at the
15 Nebraska Law Enforcement Training Center focused on avoidance of
16 apparent or actual racial profiling;

17 (c) Early intervention with any particular personnel
18 determined by the administration of the agency to have committed,
19 participated in, condoned, or attempted to cover up any instance of
20 racial profiling; and

21 (d) Disciplinary measures or other formal or informal
22 methods of prevention and enforcement.

23 None of the preventative or enforcement measures shall
24 be implemented contrary to the collective-bargaining agreement
25 provisions or personnel rules under which the member or officer in
26 question is employed.

27 (2) The Nebraska Commission on Law Enforcement and

1 Criminal Justice may develop and distribute a suggested model
2 written racial profiling prevention policy for use by law
3 enforcement agencies, but the commission shall not mandate the
4 adoption of the model policy except for any particular law
5 enforcement agency which fails to timely create and provide to the
6 commission a policy for the agency in conformance with the minimum
7 standards set forth in this section.

8 ~~(2)~~ (3) With respect to a motor vehicle stop, on and
9 after January 1, 2002, and until January 1, 2014, the Nebraska
10 State Patrol, the county sheriffs, all city and village police
11 departments, and any other law enforcement agency in this state
12 shall record and retain the following information using the form
13 developed and promulgated pursuant to section 20-505:

14 (a) The number of motor vehicle stops;

15 (b) The characteristics of race or ethnicity of the
16 person stopped. The identification of such characteristics shall
17 be based on the observation and perception of the law enforcement
18 officer responsible for reporting the motor vehicle stop and the
19 information shall not be required to be provided by the person
20 stopped;

21 (c) If the stop is for a law violation, the nature of the
22 alleged law violation that resulted in the motor vehicle stop;

23 (d) Whether a warning or citation was issued, an arrest
24 made, or a search conducted as a result of the motor vehicle stop.
25 Search does not include a search incident to arrest or an inventory
26 search; and

27 (e) Any additional information that the Nebraska

1 State Patrol, the county sheriffs, all city and village police
2 departments, or any other law enforcement agency in this state, as
3 the case may be, deems appropriate.

4 ~~(3)~~ (4) The Nebraska Commission on Law Enforcement and
5 Criminal Justice may develop a uniform system for receiving
6 allegations of racial profiling. The Nebraska State Patrol, the
7 county sheriffs, all city and village police departments, and
8 any other law enforcement agency in this state shall provide to
9 the commission (a) a copy of each allegation of racial profiling
10 received and (b) written notification of the review and disposition
11 of such allegation. No information revealing the identity of
12 the law enforcement officer involved in the stop shall be used,
13 transmitted, or disclosed in violation of any collective-bargaining
14 agreement provision or personnel rule under which such law
15 enforcement officer is employed. No information revealing the
16 identity of the complainant shall be used, transmitted, or
17 disclosed in the form alleging racial profiling.

18 ~~(4)~~ (5) Any law enforcement officer who in good faith
19 records information on a motor vehicle stop pursuant to this
20 section shall not be held civilly liable for the act of recording
21 such information unless the law enforcement officer's conduct was
22 unreasonable or reckless or in some way contrary to law.

23 ~~(5)~~ (6) On or before October 1, 2002, and annually
24 thereafter, ~~until January 1, 2014,~~ the Nebraska State Patrol, the
25 county sheriffs, all city and village police departments, and all
26 other law enforcement agencies in this state shall provide to the
27 ~~commission,~~ Nebraska Commission on Law Enforcement and Criminal

1 Justice, in such form as the commission prescribes, a summary
2 report of the information recorded pursuant to subsection ~~(2)~~ (3)
3 of this section.

4 ~~(6) On and after January 1, 2002, and until April 1,~~
5 ~~2014, the commission may,~~ (7) The Nebraska Commission on Law
6 Enforcement and Criminal Justice shall, within the limits of
7 its existing appropriations, including any grant funds which the
8 commission is awarded for such purpose, provide for a an annual
9 review and analysis of the prevalence and disposition of motor
10 vehicle stops based on racial profiling and allegations of racial
11 profiling involved in other detentions reported pursuant to this
12 section. After the review and analysis, the commission may, when it
13 deems warranted, inquire into and study individual law enforcement
14 agency circumstances in which the raw data collected and analyzed
15 raises at least some issue or appearance of possible racial
16 profiling. The commission may make recommendations to any such
17 law enforcement agency for the purpose of improving measures to
18 prevent racial profiling or the appearance of racial profiling.
19 The results of such review, analysis, inquiry, and study and
20 any recommendations by the commission to any law enforcement
21 agency shall be reported annually to the Governor and the
22 Legislature, beginning on or before April 1, 2004, until April
23 1, 2014. The report submitted to the Legislature shall be submitted
24 electronically.

25 (8) Any law enforcement officer, prosecutor, defense
26 attorney, or probation officer, unless restricted by privilege, who
27 becomes aware of incidents of racial profiling by a law enforcement

1 agency, shall report such incidents to the Nebraska Commission
2 on Law Enforcement and Criminal Justice within thirty days after
3 becoming aware of such practice.

4 Sec. 4. Section 20-505, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 20-505 On or before January 1, 2002, the Nebraska
7 Commission on Law Enforcement and Criminal Justice, the
8 Superintendent of Law Enforcement and Public Safety, the Attorney
9 General, and the State Court Administrator may adopt and
10 promulgate+ (1) A a form, in printed or electronic format, to be
11 used by a law enforcement officer when making a motor vehicle stop
12 to record personal identifying information about the operator of
13 such motor vehicle, the location of the stop, the reason for the
14 stop, and any other information that is required to be recorded
15 pursuant to subsection ~~(2)~~ (3) of section 20-504 and (2) a form, in
16 printed or electronic format, to be used to report an allegation of
17 racial profiling by a law enforcement officer.

18 Sec. 5. Section 20-506, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 20-506 (1) The Racial Profiling Advisory Committee is
21 created.

22 (2) (a) The committee shall consist of:

23 (i) The executive director of the Nebraska Commission
24 on Law Enforcement and Criminal Justice, who also shall be the
25 chairperson of the committee;

26 (ii) The Superintendent of Law Enforcement and Public
27 Safety or his or her designee;

1 (iii) The director of the Commission on Latino-Americans
2 or his or her designee; and

3 (iv) The executive director of the Commission on Indian
4 Affairs or his or her designee.

5 (b) The committee shall also consist of the following
6 persons, each appointed by the Governor from a list of ~~three~~ five
7 names submitted to the Governor for each position:

8 (i) A representative of the Fraternal Order of Police;

9 (ii) A representative of the Nebraska County Sheriffs
10 Association;

11 (iii) A representative of the Police Officers Association
12 of Nebraska;

13 (iv) A representative of the American Civil Liberties
14 Union of Nebraska;

15 (v) A representative of the AFL-CIO;

16 (vi) A representative of the Police Chiefs Association of
17 Nebraska;

18 (vii) A representative of the Nebraska branches of the
19 National Association for the Advancement of Colored People; and

20 (viii) A representative of the Nebraska State Bar
21 Association appointed by the Governor from a list of attorneys
22 submitted by the executive council of the Nebraska State Bar
23 Association.

24 (3) The committee shall meet and organize within thirty
25 days after the appointment of the members. The committee shall meet
26 semiannually at a time and place to be fixed by the committee.
27 Special meetings may be called by the chairperson or at the request

1 of two or more members of the committee.

2 (4) The committee shall advise the commission and its
3 executive director of the commission in the conduct of his or her
4 their duties regarding (a) the completeness and acceptability
5 of written racial profiling prevention policies submitted by
6 individual law enforcement agencies as required by subsection (1)
7 of section 20-504, (b) the collection of data by law enforcement
8 agencies, any needed additional data, and any needed additional
9 analysis, investigation, or inquiry as to the data provided
10 pursuant to subsection (3) of section 20-504, (c) the review,
11 analysis, inquiry, study, and recommendations required pursuant to
12 subsection (6) (7) of section 20-504, provide including an analysis
13 of the review, analysis, inquiry, study, and recommendations, and
14 (d) and make policy recommendations with respect to the prevention
15 of racial profiling and the need, if any, for enforcement by the
16 Department of Justice of the prohibitions found in section 20-502.

17 Sec. 6. Original sections 20-501, 20-502, 20-504, 20-505,
18 and 20-506, Reissue Revised Statutes of Nebraska, are repealed.