

AMENDMENTS TO LB 99

Introduced by Judiciary

1           1. Strike the original sections and insert the following  
2 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 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 prohibition 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 would  
12 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 policy on racial profiling prevention for use by law  
3 enforcement agencies, but it shall not mandate its adoption except  
4 as to any particular law enforcement agency which fails to timely  
5 create and provide to the commission its own policy in conformance  
6 with the minimum standards set forth in this section.

7           ~~(2)~~ (3) With respect to a motor vehicle stop, on and  
8 after January 1, 2002, and until January 1, ~~2014~~, 2018, the  
9 Nebraska State Patrol, the county sheriffs, all city and village  
10 police departments, and any other law enforcement agency in this  
11 state shall record and retain the following information using the  
12 form developed and promulgated pursuant to section 20-505:

13           (a) The number of motor vehicle stops;

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

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

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

26           (e) Any additional information that the Nebraska  
27 State Patrol, the county sheriffs, all city and village police

1 departments, or any other law enforcement agency in this state, as  
2 the case may be, deems appropriate.

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

17 ~~(4)~~ (5) Any law enforcement officer who in good faith  
18 records information on a motor vehicle stop pursuant to this  
19 section shall not be held civilly liable for the act of recording  
20 such information unless the law enforcement officer's conduct was  
21 unreasonable or reckless or in some way contrary to law.

22 ~~(5)~~ (6) On or before October 1, 2002, and annually  
23 thereafter until January 1, ~~2014,~~ 2018, the Nebraska State Patrol,  
24 the county sheriffs, all city and village police departments, and  
25 all other law enforcement agencies in this state shall provide  
26 to the commission, in such form as the commission prescribes, a  
27 summary report of the information recorded pursuant to subsection

1 ~~(2)~~ (3) of this section.

2           ~~(6)~~ (7) On and after January 1, 2002, and until April  
3 1, ~~2014~~, 2018, the commission ~~may~~, shall, within the limits of  
4 its existing appropriations, including any grant funds which the  
5 commission is awarded for such purpose, provide for a review and  
6 analysis of the prevalence and disposition of motor vehicle stops  
7 based on racial profiling and allegations of racial profiling  
8 involved in other detentions reported pursuant to this section.  
9 After the review and analysis, the commission may, when it deems  
10 warranted, inquire into and study individual law enforcement agency  
11 circumstances in which the raw data collected and analyzed raises  
12 at least some issue or appearance of possible racial profiling.  
13 The commission may make recommendations to any such law enforcement  
14 agency for the purpose of improving prevention measures against  
15 racial profiling or the appearance of racial profiling. The results  
16 of such review, analysis, inquiry, study, and any recommendations  
17 by the commission to any law enforcement agency shall be reported  
18 annually to the Governor and the Legislature beginning on or before  
19 April 1, 2004, until April 1, ~~2014~~. 2018. The report submitted to  
20 the Legislature shall be submitted electronically.

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

23           20-505 On or before January 1, 2002, the Nebraska  
24 Commission on Law Enforcement and Criminal Justice, the  
25 Superintendent of Law Enforcement and Public Safety, the Attorney  
26 General, and the State Court Administrator may adopt and  
27 promulgate: (1) A form, in printed or electronic format, to be used

1 by a law enforcement officer when making a motor vehicle stop to  
2 record personal identifying information about the operator of such  
3 motor vehicle, the location of the stop, the reason for the stop,  
4 and any other information that is required to be recorded pursuant  
5 to subsection ~~(2)~~ (3) of section 20-504 and (2) a form, in printed  
6 or electronic format, to be used to report an allegation of racial  
7 profiling by a law enforcement officer.

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

10           20-506 (1) The Racial Profiling Advisory Committee is  
11 created.

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

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

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

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

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

22           (b) The committee shall also consist of the following  
23 persons, each appointed by the Governor from a list of three names  
24 submitted to the Governor for each position:

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

26           (ii) A representative of the Nebraska County Sheriffs  
27 Association;

1 (iii) A representative of the Police Officers Association  
2 of Nebraska;

3 (iv) A representative of the American Civil Liberties  
4 Union of Nebraska;

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

6 (vi) A representative of the Police Chiefs Association of  
7 Nebraska;

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

10 (viii) A representative of the Nebraska State Bar  
11 Association appointed by the Governor from a list of attorneys  
12 submitted by the executive council of the Nebraska State Bar  
13 Association.

14 (3) The committee shall meet and organize within thirty  
15 days after the appointment of the members. The committee shall meet  
16 semiannually at a time and place to be fixed by the committee.  
17 Special meetings may be called by the chairperson or at the request  
18 of two or more members of the committee.

19 (4) The committee shall advise the commission and its  
20 executive director of the commission in the conduct of his or  
21 her their duties regarding (a) the completeness and acceptability  
22 of written racial profiling policies submitted by individual  
23 law enforcement agencies as required by subsection (1) of  
24 section 20-504; (b) the collection of data by law enforcement  
25 agencies, any needed additional data, and any needed additional  
26 analysis, investigation, or inquiry as to the data provided  
27 pursuant to subsection (3) of section 20-504; (c) the review,

1 analysis, inquiry, study, and recommendations, required pursuant to  
2 subsection ~~(6)~~ (7) of section 20-504, ~~provide~~ including an analysis  
3 of the review, analysis, inquiry, study, and recommendations and  
4 (d) and make policy recommendations of the committee with respect  
5 to the prevention of racial profiling and the need, if any, for  
6 enforcement by the Department of Justice of the prohibitions found  
7 in section 20-502.

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