

E AND R AMENDMENTS TO LB 99

Introduced by Murante, 49, Chairman Enrollment and Review

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 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  
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 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, the Nebraska  
9 State Patrol, the county sheriffs, all city and village police  
10 departments, and any other law enforcement agency in this state  
11 shall record and retain the following information using the form  
12 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,~~ the Nebraska State Patrol, the  
24 county sheriffs, all city and village police departments, and all  
25 other law enforcement agencies in this state shall provide to the  
26 ~~commission,~~ Nebraska Commission on Law Enforcement and Criminal  
27 Justice, in such form as the commission prescribes, a summary

1 report of the information recorded pursuant to subsection ~~(2)~~ (3)  
2 of this section.

3 ~~(6)~~ (7) On and after January 1, 2002, and until April  
4 1, 2014, ~~the commission may,~~ the Nebraska Commission on Law  
5 Enforcement and Criminal Justice shall, within the limits of  
6 its existing appropriations, including any grant funds which the  
7 commission is awarded for such purpose, provide for a review and  
8 analysis of the prevalence and disposition of motor vehicle stops  
9 based on racial profiling and allegations of racial profiling  
10 involved in other detentions reported pursuant to this section.  
11 After the review and analysis, the commission may, when it deems  
12 warranted, inquire into and study individual law enforcement agency  
13 circumstances in which the raw data collected and analyzed raises  
14 at least some issue or appearance of possible racial profiling. Any  
15 law enforcement officer, prosecutor, defense attorney, or probation  
16 officer, unless restricted by privilege, who becomes aware of  
17 incidents of racial profiling by a law enforcement agency shall  
18 report the same to the commission within thirty days of becoming  
19 aware of such practice. The commission may make recommendations  
20 to any such law enforcement agency for the purpose of improving  
21 prevention measures against racial profiling or the appearance of  
22 racial profiling. The results of such review, analysis, inquiry,  
23 and study and any recommendations by the commission to any law  
24 enforcement agency shall be reported annually to the Governor and  
25 the Legislature beginning on or before April 1, 2004, ~~until April~~  
26 1, 2014. The report submitted to the Legislature shall be submitted  
27 electronically.

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

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

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

17           20-506 (1) The Racial Profiling Advisory Committee is  
18 created.

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

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

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

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

27           (iv) The executive director of the Commission on Indian

1 Affairs or his or her designee.

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

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

6 (ii) A representative of the Nebraska County Sheriffs  
7 Association;

8 (iii) A representative of the Police Officers Association  
9 of Nebraska;

10 (iv) A representative of the American Civil Liberties  
11 Union of Nebraska;

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

13 (vi) A representative of the Police Chiefs Association of  
14 Nebraska;

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

17 (viii) A representative of the Nebraska State Bar  
18 Association appointed by the Governor from a list of attorneys  
19 submitted by the executive council of the Nebraska State Bar  
20 Association.

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

26 (4) The committee shall advise the commission and its  
27 executive director ~~of the commission~~ in the conduct of his ~~or~~

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

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

17           2. On page 1, strike beginning with "civil" in line 1  
18 through line 5 and insert "racial profiling; to amend sections  
19 20-501, 20-502, 20-504, 20-505, and 20-506, Reissue Revised  
20 Statutes of Nebraska; to change provisions relating to prohibited  
21 conduct and racial profiling prohibition policies; to require a  
22 racial profiling prevention policy; to eliminate a termination date  
23 regarding maintenance of certain records; to change powers and  
24 duties of the Nebraska Commission on Law Enforcement and Criminal  
25 Justice; to change appointment provisions and duties for the Racial  
26 Profiling Advisory Committee; to harmonize provisions; and to  
27 repeal the original sections."