

LEGISLATIVE BILL 746

Approved by the Governor March 3, 2010

Introduced by Giese, 17; Council, 11; Mello, 5; Nordquist, 7; White, 8; Cook, 13.

FOR AN ACT relating to civil rights; to amend sections 20-504 and 20-506, Reissue Revised Statutes of Nebraska; to change provisions relating to racial profiling; to change the membership of the Racial Profiling Advisory Committee; to change and provide powers and duties; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 20-504, Reissue Revised Statutes of Nebraska, is amended to read:

20-504 (1) On or before January 1, 2002, the Nebraska State Patrol, the county sheriffs, all city and village police departments, and any other law enforcement agency in this state shall adopt a written policy that prohibits the detention of any person or a motor vehicle stop when such action is motivated by racial profiling and the action would constitute a violation of the civil rights of the person.

(2) With respect to a motor vehicle stop, on and after January 1, 2002, and until January 1, ~~2010~~, 2014, the Nebraska State Patrol, the county sheriffs, all city and village police departments, and any other law enforcement agency in this state shall record and retain the following information using the form developed and promulgated pursuant to section 20-505:

(a) The number of motor vehicle stops;

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

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

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

(e) Any additional information that the Nebraska State Patrol, the county sheriffs, all city and village police departments, or any other law enforcement agency in this state, as the case may be, deems appropriate.

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

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

(5) On or before October 1, 2002, and annually thereafter until January 1, ~~2010~~, 2014, the Nebraska State Patrol, the county sheriffs, all city and village police departments, and all other law enforcement agencies in this state shall provide to the commission, in such form as the commission prescribes, a summary report of the information recorded pursuant to subsection (2) of this section.

(6) On and after January 1, 2002, and until April 1, ~~2010~~, 2014, the commission may, within the limits of its existing appropriations, provide for a review of the prevalence and disposition of motor vehicle stops based on racial profiling and allegations reported pursuant to this section. The results of such review shall be reported annually to the Governor and the Legislature beginning on or before April 1, 2004, until April 1, ~~2010~~, 2014.

Sec. 2. Section 20-506, Reissue Revised Statutes of Nebraska, is

amended to read:

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

~~(2) (2)(a)~~ The committee shall consist of: ~~the~~

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

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

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

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

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

~~(a)~~ (i) A representative appointed by of the Fraternal Order of Police;

~~(b)~~ (ii) A representative appointed by of the Nebraska County Sheriffs Association;

~~(c)~~ (iii) A representative appointed by of the Police Officers Association of Nebraska;

~~(d)~~ (iv) A representative appointed by of the American Civil Liberties Union of Nebraska;

~~(e) A representative appointed by the Nebraska State Patrol;~~

~~(f)~~ (v) A representative appointed by of the AFL-CIO; and

~~(g)~~ (vi) A representative appointed by of the Police Chiefs Association of Nebraska;

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

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

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

(4) The committee shall advise the executive director of the commission in the conduct of his or her duties regarding the review required pursuant to subsection (6) of section 20-504, provide an analysis of the review, and make policy recommendations with respect to racial profiling.

Sec. 3. Original sections 20-504 and 20-506, Reissue Revised Statutes of Nebraska, are repealed.