

LEGISLATIVE BILL 1162

Approved by the Governor April 15, 2004

Introduced by Mines, 18; Smith, 48

AN ACT relating to law enforcement; to amend section 81-1438, Reissue Revised Statutes of Nebraska, and sections 20-503, 20-504, and 81-1413, Revised Statutes Supplement, 2002; to change provisions relating to racial profiling reporting duties, certification training costs, and establishment of reserve forces; to create the Racial Profiling Advisory Committee; to provide powers and duties; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 20-503, Revised Statutes Supplement, 2002, is amended to read:

20-503. For purposes of sections 20-501 to 20-505 and section 5 of this act:

(1) Disparate treatment means differential treatment of persons on the basis of race, color, or national origin;

(2) Motor vehicle stop means any stop of a motor vehicle, except for a stop of a motor truck, truck-tractor, semitrailer, trailer, or towed vehicle at a state weighing station; and

(3) Racial profiling means detaining an individual or conducting a motor vehicle stop based upon disparate treatment of an individual.

Sec. 2. Section 20-504, Revised Statutes Supplement, 2002, 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, 2006, 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, ~~2004~~ 2006, 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 ~~January~~ April 1, ~~2004~~ 2006, 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, 2006.

Sec. 3. Section 81-1413, Revised Statutes Supplement, 2002, is amended to read:

81-1413. Tuition, fees, and such other expenses incurred in the pre-certification and certification training of applicants shall be the responsibility of the person or his or her sponsoring agency, except that through ~~June 30, 2005~~ January 1, 2007, such expenses may be financed by the training center through other appropriated funds as determined by the council in order to transition to a tuition-based system.

Sec. 4. Section 81-1438, Reissue Revised Statutes of Nebraska, is amended to read:

81-1438. The governing body of any county or city of this state, other than (1) a county containing a city of the metropolitan or primary class or (2) a city of the metropolitan or primary class, may establish a law enforcement reserve force. Members of such force shall be appointed at the discretion of the governing body. The governing body may limit the size of such reserve force.

Sec. 5. (1) The Racial Profiling Advisory Committee is created.

(2) The committee shall consist of the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, who also shall be the chairperson of the committee, and the following persons:

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

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

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

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

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

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

(g) A representative appointed by the Police Chiefs Association of Nebraska.

(3) The committee shall meet and organize within thirty days after the appointment of the members. The committee shall meet quarterly 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 pursuant to subsection (6) of section 20-504.

Sec. 6. Original section 81-1438, Reissue Revised Statutes of Nebraska, and sections 20-503, 20-504, and 81-1413, Revised Statutes Supplement, 2002, are repealed.

Sec. 7. Since an emergency exists, this act takes effect when passed and approved according to law.