

1 SENATE BILL NO. 282

2 INTRODUCED BY SMITH, CAFERRO, COCCHIARELLA, COHENOUR, ELLINGSON, GILLAN, HANSEN,
3 KITZENBERG, MANGAN, PEASE, ROUSH, SCHMIDT, SMALL-EASTMAN, TESTER, TOOLE, TROPILA,
4 WILLIAMS, WINDY BOY

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW PROHIBITING RACIAL PROFILING;
7 REQUIRING WRITTEN POLICIES AND COMPLAINT PROCEDURES; REQUIRING ~~CULTURAL~~ TRAINING
8 FOR LAW ENFORCEMENT OFFICERS; ~~PROVIDING FOR CIVIL PENALTIES~~; AND AMENDING SECTION
9 44-2-117, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 44-2-117, MCA, is amended to read:

14 **"44-2-117. Racial profiling prohibited -- definitions -- policies -- complaints -- training.** (1) A peace
15 officer may not engage in racial profiling.

16 (2) The race or ethnicity of an individual may not be the sole factor in:

17 (a) determining the existence of probable cause to take into custody or arrest an individual; or

18 (b) constituting a particularized suspicion that an offense has been or is being committed in order to
19 justify the detention of an individual or the investigatory stop of a motor vehicle.

20 (3) (a) Each municipal, county, consolidated local government, and state law enforcement agency shall
21 adopt a detailed written policy that clearly defines the elements constituting racial profiling. Each agency's policy
22 must prohibit racial profiling, require that all stops are lawful under 46-5-401, and require that all stops are
23 documented according to the agency's standard policies and procedures.

24 (b) The policy must include a procedure that the law enforcement agency will use to address written
25 complaints concerning racial profiling. The complaint procedure must require that:

26 (i) all written complaints concerning racial profiling be promptly reviewed;

27 (ii) a person is designated who shall review all written complaints of racial profiling;

28 (iii) the designated person shall, within 10 days of receipt of a written complaint, acknowledge receipt
29 of the complaint in writing; and

30 (iv) after a review is completed, the designated person shall, in writing, inform the person who submitted

1 the written complaint and the head of the agency of the results of the review.

2 (c) The policy must be available for public inspection during normal business hours.

3 (4) Each municipal, county, consolidated local government, and state law enforcement agency shall
4 require training for all of its peace officers in cultural sensitivity and bias-based policing CULTURAL AWARENESS
5 TRAINING AND TRAINING IN RACIAL PROFILING. The training program must be certified by the peace officers'
6 standards and training advisory council.

7 (5) An agency that fails to adopt a policy and complaint procedure or fails to comply with the training
8 requirements under this section is subject to a civil penalty of not more than \$500.

9 (4)(6)(5) If an investigation of a complaint of racial profiling reveals that a peace officer was in direct
10 violation of the law enforcement agency's written policy prohibiting racial profiling, the law enforcement agency
11 shall take appropriate action against the peace officer consistent with applicable laws, rules, ordinances, or
12 policies.

13 (5)(7)(6) For the purposes of this section, the following definitions apply:

14 (a) "Peace officer" has the meaning provided in 46-1-202.

15 (b) "Racial profiling" means the detention, official restraint, or other disparate treatment of an individual
16 solely on the basis of the racial or ethnic status of the individual.

17 (7) THE DEPARTMENT OF JUSTICE SHALL MAKE PERIODIC REPORTS TO THE LAW AND JUSTICE INTERIM COMMITTEE
18 REGARDING THE DEGREE OF COMPLIANCE BY MUNICIPAL, COUNTY, CONSOLIDATED LOCAL GOVERNMENT, AND STATE LAW
19 ENFORCEMENT AGENCIES WITH THE REQUIREMENTS OF THIS SECTION."

21 NEW SECTION. Section 2. Notification to tribal governments. The secretary of state shall send a
22 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
23 band of Chippewa.

24 - END -