

**** Bill No. ****

Introduced By *****

By Request of the Law and Justice Interim Committee

A Bill for an Act entitled: "An Act eliminating the requirement that a racial profiling report be provided to the legislature; and amending section 44-2-117, MCA."

Be it enacted by the Legislature of the State of Montana:

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

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

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

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

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

(3) Each law enforcement agency shall adopt a policy on race-based traffic stops that:

(a) prohibits the practice of routinely stopping members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law;

(b) provides for periodic reviews by the law enforcement

agency and collection of data that determine whether any peace officers of the law enforcement agency have a pattern of stopping members of minority groups for violations of vehicle laws in a number disproportionate to the population of minority groups residing or traveling within the jurisdiction of the law enforcement agency;

(c) if the review under subsection (3)(b) reveals a pattern, requires an investigation to determine whether any peace officers of the law enforcement agency routinely stop members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law.

(4) (a) Each municipal, county, consolidated local government, and state law enforcement agency shall adopt a detailed written policy that clearly defines the elements constituting racial profiling. Each agency's policy must prohibit racial profiling, require that all stops are lawful under 46-5-401, and require that all stops are documented according to subsection (3) of this section.

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

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

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

(iii) the designated person shall, within 10 days of receipt

of a written complaint, acknowledge receipt of the complaint in writing; and

(iv) after a review is completed, the designated person shall, in writing, inform the person who submitted the written complaint and the head of the agency of the results of the review.

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

(5) Each municipal, county, consolidated local government, and state law enforcement agency shall require for all of its peace officers cultural awareness training and training in racial profiling. The training program must be certified by the Montana public safety officer standards and training council established in 2-15-2029.

(6) Each law enforcement agency may provide for appropriate counseling and training of any peace officer found to have engaged in race-based traffic stops within 90 days of the review. The course or courses of instruction and the guidelines must stress understanding and respect for racial and cultural differences and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

(7) If an investigation of a complaint of racial profiling reveals that a peace officer was in direct violation of the law enforcement agency's written policy prohibiting racial profiling, the law enforcement agency shall take appropriate action against the peace officer consistent with applicable laws, rules,

ordinances, or policies.

(8) For the purposes of this section, the following definitions apply:

(a) "Minority group" means individuals of African American, Hispanic, Native American, Asian, or Middle Eastern descent.

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

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

~~(9) The department of justice shall make periodic reports to the law and justice interim committee regarding the degree of compliance by municipal, county, consolidated local government, and state law enforcement agencies with the requirements of this section.~~

~~(10) Each law enforcement agency in this state may use federal funds from community-oriented policing services grants or any other federal sources to equip each vehicle used for traffic stops with a video camera and voice-activated microphone."~~

{Internal References to 44-2-117: None.}

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