

STATE OF NEW YORK

565

2017-2018 Regular Sessions

IN ASSEMBLY

January 9, 2017

Introduced by M. of A. JAFFEE, MOSLEY, BARRON, JOYNER, GOTTFRIED, PERRY
-- Multi-Sponsored by -- M. of A. RIVERA -- read once and referred to
the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing the
office of law enforcement professional standards

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The executive law is amended by adding a new section 837-aa
2 to read as follows:

3 § 837-aa. Office of law enforcement professional standards. 1. Defi-
4 nitions. As used in this section, the following terms shall have the
5 following meanings:

6 (a) "Director" shall mean the director of the office of law enforce-
7 ment professional standards.

8 (b) "Office" shall mean the office of law enforcement professional
9 standards.

10 2. Creation of the office. (a) There is hereby created in the division
11 of criminal justice services an office of law enforcement professional
12 standards which shall perform such administrative, investigative, policy
13 and training oversight, and monitoring functions, as the commissioner
14 shall direct, to assure and maintain the integrity of law enforcement
15 activities and to provide assistance to law enforcement entities state-
16 wide, including but not limited to, establishing policies and procedures
17 to prohibit traffic stops that result in the stopping, detention or
18 search of any person when such action is solely motivated by consider-
19 ations of race, color, ethnicity, national origin, age, gender or sexual
20 orientation, and the action would constitute a violation of the civil
21 rights of the person.

22 (b) The office shall take appropriate steps to promote and ensure
23 compliance with the general policy that prohibits racial profiling in

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 selecting vehicles for traffic stops, or in deciding upon the scope and
2 substance of post-stop actions.

3 (c) The commissioner shall appoint a director of the office of law
4 enforcement professional standards. Such person shall have education,
5 experience or professional background in the fields of law, investi-
6 gation, criminal practice and administration.

7 (d) The director, may with the approval of the commissioner, organize
8 the work of the office into such bureaus and other organizational units
9 as may be necessary. The commissioner may assign to the office such
10 employees of the division as may be necessary.

11 (e) All law enforcement agencies operating under the authority of the
12 law of the state of New York shall cooperate and aid the office in the
13 performance of its duties.

14 3. Duties and functions of the office. (a) (1) The office shall
15 promulgate a written policy for traffic stops that shall be adopted by
16 every local and state police department that prohibits in regard to
17 traffic stops, the stopping, detention or search of any person when such
18 action is solely motivated by considerations of race, color, ethnicity,
19 national origin, age, gender or sexual orientation, and the action would
20 constitute a violation of the civil rights of the person.

21 (2) The office shall develop a written form that each municipal police
22 department, sheriff's office, and the division of state police shall
23 use, to record and retain the following information: (i) the number of
24 persons stopped for traffic violations; (ii) characteristics of race,
25 color, ethnicity, national origin, gender, sexual orientation and age of
26 such persons, provided the identification of such characteristics shall
27 be based on the observation and perception of the police officer respon-
28 sible for reporting the stop and the information shall not be required
29 to be provided by the person stopped; (iii) the nature of the alleged
30 traffic violation that resulted in the stop; (iv) whether a warning or
31 citation was issued, an arrest made or a search conducted as a result of
32 the stop; and (v) any additional information that such municipal police
33 department, sheriff's office, or the division of state police, as the
34 case may be, deems appropriate.

35 (3) Each municipal police department, sheriff's office, and the divi-
36 sion of state police shall provide to the office: (i) a copy of each
37 complaint received pursuant to this section; and (ii) written notifica-
38 tion of the review and disposition of such complaint.

39 (b) (1) The office shall set up a procedure to receive, review, and
40 investigate complaints by citizens that state and local law enforcement
41 engaged in a stop, detention or search of such person, or the citizen
42 was a witness to such stop, detention or search, when such action was
43 solely motivated by considerations of race, color, ethnicity, national
44 origin, age, gender or sexual orientation, and the action would consti-
45 tute a violation of the civil rights of the person.

46 (2) (A) State and local law enforcement agencies shall notify the
47 office of all complaints received from citizens that state and local law
48 enforcement engaged in a stop, detention or search of such person, or
49 the citizen was a witness to such stop, detention or search, when such
50 action was solely motivated by considerations of race, color, ethnicity,
51 national origin, age, gender or sexual orientation, and the action would
52 constitute a violation of the civil rights of the person to the office.

53 (B) State and local law enforcement agencies shall inform the office
54 of the outcome of such complaints upon completion of investigation.

55 (3) After the office completes its investigation of such complaints or
56 when the office finds any indication of wrongdoing the complaint shall

1 be referred to the state and local law enforcement internal affairs
2 bureau and any other actions deemed appropriate by the director.

3 (c) The office shall be authorized to conduct operational audits and
4 independent analyses of data, including such data as collected pursuant
5 to subdivision two of this section and other data as necessary and
6 appropriate, to identify any potential disparity in enforcement and
7 systemic problems that may exist that affect motor vehicle stops and
8 post-stop enforcement actions, training provided to law enforcement
9 officials, investigations of alleged misconduct, any other matters that
10 may affect the integrity of New York state and local law enforcement
11 agencies and departments and shall make recommendations for appropriate
12 actions.

13 (d) The office shall have timely access to all data and other records
14 maintained by the state and local law enforcement agencies that are
15 deemed necessary by the director to conduct independent analyses and to
16 perform the functions authorized by this section. Nothing in this
17 section shall be deemed to require the disclosure of records or data in
18 violation of any constitutional or statutory privacy protections or any
19 collective bargaining rights.

20 4. Authority of the office. The office shall have the specific author-
21 ity to perform the following functions:

22 (a) review the procedures and implementation related to state and
23 local law enforcement agencies concerning motor vehicle stops and post-
24 stop enforcement actions, supervision of patrol activities, training
25 provided to law enforcement members assigned to patrol duties and the
26 conduct of investigations of alleged misconduct and other internal
27 affairs;

28 (b) monitor, review and evaluate the quality and timeliness of the
29 state and local law enforcement agencies' conduct of investigation of
30 alleged misconduct, disciplinary actions and interventions, supervisory
31 actions, reports, motor vehicle stop reports and logs and supervisory
32 reviews relating to racial profiling;

33 (c) approve the curricula, prescribe trainer qualifications, and
34 review and develop training of state and local law enforcement members
35 on cultural awareness, law enforcement ethics and leadership, constitu-
36 tional law pertaining to arrest, search and seizure, equal protection,
37 and other relevant law enforcement issues the director deems necessary
38 or appropriate to effectuate the purposes of this section; and

39 (d) review all state and local law enforcement agencies' internal
40 affairs investigations and dispositions, including any decision by an
41 agency not to refer a complaint, from a citizen or other source, to the
42 office to ascertain whether law enforcement agencies have complied with
43 applicable operating procedures, whether the outcomes of those investi-
44 gations are supported by the evidence, whether any discipline imposed
45 was appropriate and make recommendations to the attorney general for
46 appropriate remedial action.

47 In order for a local or state law enforcement agency to complete
48 accreditation requirements, law enforcement officers of such agency must
49 complete a training as developed by the division in relation to prohib-
50 iting racial profiling.

51 5. Reports. (a) The office shall prepare annual public reports that
52 include aggregate statistics on state and local law enforcement activ-
53 ities and procedures and aggregate data on race, color, ethnicity,
54 national origin, gender, sexual orientation and age of such persons
55 involved in the traffic stop. These reports shall include aggregate
56 statistics on the number of motor vehicle stops, reason for stops,

1 enforcement actions, including but not limited to, citations, warnings
2 and arrests, number of searches conducted, and the use of force. The
3 reports shall also include aggregate statistics of the number of crimi-
4 nal charges filed, contraband seizures and wanted persons taken into
5 custody as a result of motor vehicle stops.

6 (b) The office shall prepare annual reports providing aggregate data
7 regarding misconduct investigations and the number of external, inter-
8 nal, and total complaints received and the disposition of those
9 complaints.

10 (c) The commissioner shall, on an annual basis, report to the governor
11 and the legislature on the implementation of this section.

12 (d) The report and statistics shall be published on the division's
13 website.

14 § 2. This act shall take effect on the first of April next succeeding
15 the date on which it shall have become a law.