STATE OF NEW YORK

1206

2021-2022 Regular Sessions

IN SENATE

January 8, 2021

Introduced by Sens. BENJAMIN, BAILEY, COMRIE, HARCKHAM, JACKSON, LIU, MAY, PARKER, RAMOS, SALAZAR, SANDERS, SEPULVEDA, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the executive law, in relation to ethnic or racial profiling

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

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

§ 837-w. Ethnic and racial profiling. 1. For the purposes of this section:

(a) "Law enforcement agency" means an agency established by the state or a unit of local government engaged in the prevention, detection, or investigation of violations of criminal law.

(b) "Law enforcement officer" means a police officer or peace officer, as defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, employed by a law enforcement agency.

(c) "Racial or ethnic profiling" means the practice of a law enforcement agent or agency, relying, to any degree, on actual or perceived race, color, ethnicity, national origin or religion in selecting which individual or location to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links a specific person or location with a particular characteristic described in this paragraph to an identified criminal incident or scheme.

(d) "Routine or spontaneous investigatory activities" means the following activities by a law enforcement agent:

(i) Interviews;

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

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(ii) Traffic stops;
(iii) Pedestrian stops;
(iv) Frisks and other types of body searches;
(v) Consensual or nonconsensual searches of persons, property or possessions (including vehicles) of individuals;
(vi) Data collection and analysis, assessments and investigations; and
(vii) Inspections and interviews.

2. Every law enforcement agency and every law enforcement officer shall be prohibited from engaging in racial or ethnic profiling.

3. Every law enforcement agency shall promulgate and adopt a written policy which prohibits racial or ethnic profiling. In addition, each such agency shall promulgate and adopt procedures for the review and the taking of corrective action with respect to complaints by individuals who allege that they have been the subject of racial or ethnic profiling. A copy of each such complaint received pursuant to this section and written notification of the review and disposition of such complaint shall be promptly provided by such agency to the division.

4. The attorney general may bring an action on behalf of the people for injunctive relief and/or damages against a law enforcement agency that is engaging in or has engaged in an act or acts of racial profiling in a court having jurisdiction to issue such relief. The court may award costs and reasonable attorney fees to the attorney general who prevails in such an action.

5. Nothing in this section shall be construed as diminishing or abrogating any right, remedy or cause of action which an individual who has been subject to racial or ethnic profiling may have pursuant to any other provision of law.

§ 2. This act shall take effect immediately; provided that the provisions of subdivision 3 of section 837-w of the executive law as added by section one of this act shall take effect on the ninetieth day after it shall have become a law.