

STATE OF NEW YORK

8109

IN SENATE

January 25, 2022

Introduced by Sen. CLEARE -- 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:

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

3 § 837-x. Ethnic and racial profiling. 1. For the purposes of this
4 section:

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

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

11 (c) "Racial or ethnic profiling" means the practice of a law enforce-
12 ment agent or agency, relying, to any degree, on actual or perceived
13 race, color, ethnicity, national origin or religion in selecting which
14 individual or location to subject to routine or spontaneous investigato-
15 ry activities or in deciding upon the scope and substance of law
16 enforcement activity following the initial investigatory procedure,
17 except when there is trustworthy information, relevant to the locality
18 and timeframe, that links a specific person or location with a partic-
19 ular characteristic described in this paragraph to an identified crimi-
20 nal incident or scheme.

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

23 (i) Interviews;

24 (ii) Traffic stops;

25 (iii) Pedestrian stops;

26 (iv) Frisks and other types of body searches;

27 (v) Consensual or nonconsensual searches of persons, property or
28 possessions (including vehicles) of individuals;

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

LBD14436-01-2

1 (vi) Data collection and analysis, assessments and investigations; and
2 (vii) Inspections and interviews.

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

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

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

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

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