To: Judiciary B

MISSISSIPPI LEGISLATURE REGULAR SESSION 2002
By: Representative Fleming To: Judiciary B

HOUSE BILL NO. 172

AN ACT TO PROHIBIT RACIAL PROFILING BY LAW ENFORCEMENT OFFICERS; TO PROVIDE PENALTIES FOR VIOLATIONS; TO AMEND SECTION 45-6-11, MISSISSIPPI CODE OF 1972, TO REQUIRE TRAINING IN THE PREVENTION OF RACIAL PROFILING; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. It shall be unlawful for any law enforcement officer to detain or stop a person in traffic based solely on the race of the person being detained or stopped. All law enforcement agencies shall keep accurate records of all traffic stops and detentions identifying the reasons for the stops and the race of the person being stopped or detained. Any law enforcement officer who violates this section shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00) or imprisoned for up to one (1) year or both. In addition to such fine and/or imprisonment the law enforcement officer shall not return to the profession of law enforcement until such officer has been trained in the prevention of racial profiling as provided in Section 45-6-11.

SECTION 2. Section 45-6-11, Mississippi Code of 1972, is amended as follows:

45-6-11. (1) Law enforcement officers already serving under permanent appointment on July 1, 1981, and personnel of the division of community services under Section 47-7-9, Mississippi Code of 1972, serving on July 1, 1994, shall not be required to meet any requirement of subsections (3) and (4) of this section as a condition of continued employment; nor shall failure of any such law enforcement officer to fulfill such requirements make that person ineligible for any promotional examination for which that person is eligible.

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person is otherwise eligible. Provided, however, if any law
enforcement officer certified under the provisions of this chapter
leaves his employment as such and does not become employed as a
law enforcement officer within two (2) years from the date of
termination of his prior employment, he shall be required to
comply with board policy as to rehiring standards in order to be
employed as a law enforcement officer; except, that, if any law
enforcement officer certified under this chapter leaves his
employment as such to serve as a sheriff, he may be employed as a
law enforcement officer after he has completed his service as a
sheriff without being required to comply with board policy as to
rehiring standards. Part-time law enforcement officers serving on
or before July 1, 1998, shall have until July 1, 2001, to obtain
certification as a part-time officer.

(2) Any person who has twenty (20) years of law enforcement
experience and who is eligible to be certified under this section
shall be eligible for recertification after leaving law
enforcement on the same basis as someone who has taken the basic
training course. Application to the board to qualify under this
subsection shall be made no later than June 30, 1993.

(3) (a) No person shall be appointed or employed as a law
enforcement officer or a part-time law enforcement officer unless
that person has been certified as being qualified under the
provisions of subsection (4) of this section.

(b) No person shall be appointed or employed as a law
enforcement trainee by any law enforcement unit for a period to
exceed two (2) years. The prohibition against the appointment or
employment of a law enforcement trainee for a period not to exceed
two (2) years may not be nullified by terminating the appointment
or employment of such a person before the expiration of the time
period and then rehiring the person for another period. Any
person, who, due to illness or other events beyond his control,
could not attend the required school or training as scheduled, may
serve with full pay and benefits in such a capacity until he can
attend the required school or training.

(c) No person shall serve as a law enforcement officer
in any full-time, part-time, reserve or auxiliary capacity during
a period when that person's certification has been suspended,
cancelled or recalled pursuant to the provisions of this chapter.

(4) In addition to the requirements of subsections (3), (7)
and (8) of this section, the board, by rules and regulations
consistent with other provisions of law, shall fix other
qualifications for the employment of law enforcement officers,
including minimum age, education, physical and mental standards,
citizenship, good moral character, experience and such other
matters as relate to the competence and reliability of persons to
assume and discharge the responsibilities of law enforcement
officers, and the board shall prescribe the means for presenting
evidence of fulfillment of these requirements. Additionally, the
board shall fix qualifications for the appointment or employment
of part-time law enforcement officers to essentially the same
standards and requirements as law enforcement officers. The board
shall develop and implement a part-time law enforcement officer
training program that meets the same performance objectives and
has essentially the same or similar content as the programs
approved by the board for full-time law enforcement officers and
the board shall provide that such training shall be available
locally and held at times convenient to the persons required to
receive such training.

(5) Any elected sheriff, constable, deputy or chief of
police may apply for certification. Such certification shall be
granted at the request of the elected official after providing
evidence of satisfaction of the requirements of subsections (3)
and (4) of this section. Certification granted to such elected
officials shall be granted under the same standards and conditions
(6) The board shall issue a certificate evidencing satisfaction of the requirements of subsections (3) and (4) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the board for approved law enforcement officer education and training programs in this state, and has satisfactorily passed any and all diagnostic testing and evaluation as required by the board to ensure competency.

(7) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

(a) The certificate was issued by administrative error;
(b) The certificate was obtained through misrepresentation or fraud;
(c) The holder has been convicted of any crime involving moral turpitude;
(d) The holder has been convicted of a felony; or
(e) Other due cause as determined by the board.

(8) When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling the certification of a law enforcement officer or a part-time law enforcement officer, notice and opportunity for a hearing shall be provided in accordance with law prior to such reprimand, suspension or revocation.

(9) Any full- or part-time law enforcement officer aggrieved by the findings and order of the board may file an appeal with the chancery court of the county in which such person is employed from
the final order of the board. Such appeals must be filed within thirty (30) days of the final order of the board.

(10) Any full- or part-time law enforcement officer whose certification has been cancelled pursuant to this chapter may reapply for certification, but not sooner than two (2) years after the date on which the order of the board canceling such certification becomes final.

(11) The board shall develop and train all persons seeking certification as a law enforcement officer in the prevention of racial profiling. The provisions of this subsection shall apply to all recruits who begin training on or after July 1, 2002, and all law enforcement officers in the state shall complete such training by July 1, 2003.

SECTION 3. This act shall take effect and be in force from and after July 1, 2002.