

By: Representative Fleming

To: Judiciary B

HOUSE BILL NO. 115

1 AN ACT TO PROHIBIT RACIAL PROFILING BY LAW ENFORCEMENT
2 OFFICERS; TO PROVIDE PENALTIES FOR VIOLATIONS; TO AMEND SECTION
3 45-6-11, MISSISSIPPI CODE OF 1972, TO REQUIRE TRAINING IN THE
4 PREVENTION OF RACIAL PROFILING; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** It shall be unlawful for any law enforcement
7 officer to detain or stop a person in traffic based solely on the
8 race of the person being detained or stopped. All law enforcement
9 agencies shall keep accurate records of all traffic stops and
10 detentions identifying the reasons for the stops and the race of
11 the person being stopped or detained. Any law enforcement officer
12 who violates this section shall, upon conviction, be fined not
13 more than One Thousand Dollars (\$1,000.00) or imprisoned for up to
14 one (1) year or both. In addition to such fine and/or
15 imprisonment the law enforcement officer shall not return to the
16 profession of law enforcement until such officer has been trained
17 in the prevention of racial profiling as provided in Section
18 45-6-11.

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

21 45-6-11. (1) Law enforcement officers already serving under
22 permanent appointment on July 1, 1981, and personnel of the
23 division of community services under Section 47-7-9, Mississippi
24 Code of 1972, serving on July 1, 1994, shall not be required to
25 meet any requirement of subsections (3) and (4) of this section as
26 a condition of continued employment; nor shall failure of any such
27 law enforcement officer to fulfill such requirements make that
28 person ineligible for any promotional examination for which that

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

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

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

53 (b) No person shall be appointed or employed as a law
54 enforcement trainee by any law enforcement unit for a period to
55 exceed two (2) years. The prohibition against the appointment or
56 employment of a law enforcement trainee for a period not to exceed
57 two (2) years may not be nullified by terminating the appointment
58 or employment of such a person before the expiration of the time
59 period and then rehiring the person for another period. Any
60 person, who, due to illness or other events beyond his control,
61 could not attend the required school or training as scheduled, may

62 serve with full pay and benefits in such a capacity until he can
63 attend the required school or training.

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

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

88 (5) Any elected sheriff, constable, deputy or chief of
89 police may apply for certification. Such certification shall be
90 granted at the request of the elected official after providing
91 evidence of satisfaction of the requirements of subsections (3)
92 and (4) of this section. Certification granted to such elected
93 officials shall be granted under the same standards and conditions

94 as established by law enforcement officers and shall be subject to
95 recall as in subsection (7) of this section.

96 (6) The board shall issue a certificate evidencing
97 satisfaction of the requirements of subsections (3) and (4) of
98 this section to any applicant who presents such evidence as may be
99 required by its rules and regulations of satisfactory completion
100 of a program or course of instruction in another jurisdiction
101 equivalent in content and quality to that required by the board
102 for approved law enforcement officer education and training
103 programs in this state, and has satisfactorily passed any and all
104 diagnostic testing and evaluation as required by the board to
105 ensure competency.

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

110 (a) The certificate was issued by administrative error;

111 (b) The certificate was obtained through
112 misrepresentation or fraud;

113 (c) The holder has been convicted of any crime
114 involving moral turpitude;

115 (d) The holder has been convicted of a felony; or

116 (e) Other due cause as determined by the board.

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

123 (9) Any full- or part-time law enforcement officer aggrieved
124 by the findings and order of the board may file an appeal with the
125 chancery court of the county in which such person is employed from

126 the final order of the board. Such appeals must be filed within
127 thirty (30) days of the final order of the board.

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

133 (11) The board shall develop and train all persons seeking
134 certification as a law enforcement officer in the prevention of
135 racial profiling. The provisions of this subsection shall apply
136 to all recruits who begin training on or after July 1, 2004, and
137 all law enforcement officers in the state shall complete such
138 training by July 1, 2005.

139 **SECTION 3.** This act shall take effect and be in force from
140 and after July 1, 2004.