WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

House Bill No. 4289
(By Delegates Amores, Manuel, Marshall, Webster, Staton, Smirl and Webb)

Passed February 25, 2002
In Effect Ninety Days from Passage
ENROLLED

H. B. 4289

(By Delegates Amores, Manuel, Marshall, Webster, Staton, Smirl and Webb)

[Passed February 25, 2002; in effect ninety days from passage.]

AN ACT to amend article twenty-nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section ten, relating to prohibiting racial profiling by law-enforcement officers and agencies.

Be it enacted by the Legislature of West Virginia:

That article twenty-nine, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section ten, to read as follows:

ARTICLE 29. LAW ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-10. Prohibition of racial profiling.

1 (a) The Legislature finds that the use by a law-enforcement officer of race, ethnicity, or national origin in deciding which persons should be subject to traffic stops, stops and frisks, questioning, searches, and seizures is a problematic law-enforcement tactic. The reality or public perception of racial
profiling alienates people from police, hinders community policing efforts, and causes law-enforcement officers and law-enforcement agencies to lose credibility and trust among the people law-enforcement is sworn to protect and serve. Therefore, the West Virginia Legislature declares that racial profiling is contrary to public policy and should not be used as a law-enforcement investigative tactic.

(b) For purposes of this section:

(1) The term "law-enforcement officer" means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality thereof.

(2) The term "municipality" means any incorporated town or city whose boundaries lie within the geographic boundaries of the state.

(3) The term "racial profiling" means the practice of a law-enforcement officer relying, to any degree, on race, ethnicity, or national origin in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law-enforcement activity following the initial routine investigatory activity. Racial profiling does not include reliance on race, ethnicity, or national origin in combination with other identifying factors when the law-enforcement officer is seeking to apprehend a specific suspect whose race, ethnicity, or national origin is part of the description of the suspect.

(4) The term “state and local law-enforcement agencies” means any duly authorized state, county or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof.

(c) No law-enforcement officer shall engage in racial profiling.

(d) All state and local law-enforcement agencies shall establish and maintain policies and procedures designed to
prevent racial profiling. Policies and procedures shall include the following:

(1) A prohibition on racial profiling;

(2) Independent procedures for receiving, investigating, and responding to complaints alleging racial profiling by law-enforcement officers;

(3) Procedures to discipline law-enforcement officers who engage in racial profiling; and

(4) Any other policies and procedures deemed necessary by state and local law-enforcement agencies to eliminate racial profiling.
That Joint Committee on Enrolled Bills hereby certifies that the forgoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved, this the ___ day of ___ 2002.

Governor