

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Byron Rushing

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to Improve the Collection and Analysis of Data Relative to Traffic Stops.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Byron Rushing
Sonia Chang-Díaz

9th Suffolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO IMPROVE THE COLLECTION AND ANALYSIS OF DATA RELATIVE TO TRAFFIC STOPS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 90C is hereby amended by inserting after Section 6 the following new section:

2

3 Section 6A. Improved Systems for Collection and Analysis of Data Relative to Traffic Stops

4

5 (A) Findings.

6

7 (1) Municipal and state law enforcement officers play a vital role in protecting the public from crime.
8 The vast majority of police officers discharge their duties professionally and without bias.

9

10 (2) The use by police officers of race, ethnicity, or national origin in deciding which persons should
11 be subject to traffic stops, searches and seizures is improper unless a specific suspect description is
12 involved.

13

14 (3) Statistical evidence from Massachusetts demonstrates that racial disparities in the stopping and
15 searching of cars are prevalent. Specifically, the study authorized pursuant to Massachusetts Chapter
16 228 of the Laws of 2000 found that 249 of the Commonwealth's 366 law enforcement agencies issued

17 citations to and/or searched non-white motorists in ratios disproportionate to the portion constituted
18 by those individuals in the corresponding population.

19

20 (4) Racial profiling harms individuals subjected to it because they experience fear, anxiety,
21 humiliation, anger, resentment and cynicism when they are treated, without justification, as criminal
22 suspects.

23

24 (5) Racial profiling in law enforcement is not merely wrong, but also ineffective. The large majority
25 of individuals subjected to stops and other enforcement activities based on race, ethnicity, or national
26 origin, are found to be law abiding and therefore racial profiling is not an effective means to uncover
27 criminal activity, and engaging in such activity squanders limited law enforcement resources.

28

29 (6) Race-based assumptions in law enforcement perpetuate negative racial stereo-types that are
30 harmful to our rich and diverse democracy, and materially impair our efforts to maintain a fair and
31 just society.

32

33 (7) Racial profiling undercuts law enforcement and the criminal justice system as a whole by
34 undermining public confidence and trust in the police, the courts, and the criminal law, thereby
35 undermining law enforcement's efforts and ability to solve and reduce crime.

36

37 (8) Law enforcement efforts to eradicate racial profiling and redress the harms it causes, while
38 laudable, have not been uniform throughout the Commonwealth.

39

40 (9) A comprehensive solution is needed to address racial profiling at the state and local levels.

41

42 (B) Ban on racial profiling.

43

44 (1) No state or municipal law enforcement officer or law enforcement agency shall engage in racial
45 profiling.

46

47 (2) As used in this section, "racial profiling" means the practice by a law enforcement agent or
48 agency of relying to any degree on race, ethnicity, or national origin in deciding who should be
49 subject to traffic stops, pedestrian stops, frisks and other types of bodily searches, interviews, and
50 searches and seizures of motorists, passengers, and motor vehicles, except when such
51 characteristics are used in combination with other identifying factors in seeking to apprehend a
52 specific suspect whose racial, ethnic or national origin status is part of the description of the
53 suspect, which description is particularized, timely and reliable.

54

55 (C) Traffic Data Review Committee.

56

57 (1) There is created a Traffic Data Review Committee, consisting of not more than 12 members,
58 which shall independently exercise its powers, duties, and responsibilities. The Traffic Data Review
59 Committee shall have the authority to allow additional participation from various groups that the
60 Committee deems necessary for additional input.

61

62 (2) The membership of the Traffic Data Review Committee shall consist of:

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64 (a) two legislators appointed by the General Court leadership, one member from each
65 house;

66

67 (b) the Attorney General or his or her designee;

68

69 (c) the Secretary of the Executive Office of Public Safety and Security or his or her
70 designee;

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72 (d) the Registrar of the Registry of Motor Vehicles or his or her designee;

73

74 (e) the Director of the Massachusetts State Police or his or her designee;

75

76 (f) Chief Counsel of the Committee for Public Counsel Services or his or her designee;

77

78 (g) two members of local or municipal law enforcement agencies, representing jurisdictions
79 of varied size and geography, appointed by the Governor;

80

81 (h) two members of community and/or civil rights advocacy organizations appointed by the
82 Governor; and
83

84 (i) one member of the Massachusetts academic community with specific expertise in both
85 statistical analysis and law enforcement, appointed by the Governor.
86

87 (3) All Traffic Data Review Committee members shall serve, without compensation, for two years
88 and until their successors are appointed. Members may be reappointed for an unlimited number of
89 terms. The Traffic Data Review Committee shall meet at least quarterly.

90

91 (4) From the membership of the Traffic Data Review Committee, the Governor shall designate the
92 chair and vice chair, who shall serve at the discretion of the Governor. Chairpersons shall serve in
93 that capacity for a term not to exceed two years.

94

95 (5) The Traffic Data Review Committee shall have the following powers, duties, and responsibilities:

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97 (a) to operate solely as an advisory body. Any proposed changes to rules and policy
98 promoted by the Traffic Data Review Committee will constitute "recommendations,"
99 which may be reported to the Governor, the Secretary of Public Safety, and the General
100 Court and/or to law enforcement agencies and other entities identified as appropriate
101 by the Traffic Data Review Committee;
102

103 (b) to promulgate model policies for law enforcement agencies that are designed to protect
104 individuals' civil rights related to law enforcement practices and to recommend to law
105 enforcement agencies model rules necessary to effectuate training on data collection
106 and analysis, and mechanisms to engage agencies that fail to fulfill the requirements of
107 this section;
108

109 (c) to identify and recommend best practices for traffic stop data collection and analysis,
110 including best practices for making use of advanced technologies;
111

112 (d) to review reports compiled pursuant to subsection (E)(1) and (E)(4), and, as necessary,
113 other data or reports collected or compiled pursuant to this section, and to consider and
114 propose solutions to identify, eliminate and prevent racial profiling;
115

116 (e) to support and encourage law enforcement agencies in their outreach to local
117 communities concerning a) the goals of traffic enforcement, b) perceived racial and
118 ethnic disparities in traffic stops and other law enforcement activities, and c) strategies
119 for monitoring and reducing such disparities where found to exist;
120

121 (f) to review reports, analysis, recommendations, and conclusions formulated in
122 connection with the implementation of Massachusetts Chapter 228 of the Laws of 2000,
123 and to consider such reports, analysis, recommendations and conclusions in executing
124 the powers, duties, and responsibilities under this subsection; and
125

126 (g) to annually issue a report to the Governor regarding the Traffic Data Review
127 Committee's activities during the previous fiscal year.
128

129 (D) Ongoing Data Collection.

130

131 (1) Within 90 days of the effective date of this section, whenever a state or municipal law
132 enforcement officer issues a Massachusetts Uniform Citation for an alleged motor vehicle violation,
133 he or she shall record at least the following:

134

135 (a) the identifying characteristics of the individuals who receive a warning or a citation, or
136 who were arrested, including the race or ethnicity and the gender of the individual;
137

138 (b) the reason for the traffic stop;
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140 (c) the location and time of the traffic stop;
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142 (d) whether a search was initiated as a result of the stop, and whether it was with consent
143 or by other means;
144

145 (e) whether or not contraband was found during a search, and, if so, the type and amount
146 of contraband seized;
147

148 (f) whether the stop resulted in a warning, citation or arrest;
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150 (g) the name and badge number of the officer initiating the stop.
151

152 (2) Within 90 days of the effective date of this section, whenever a state or municipal law
153 enforcement officer stops a motorist for an alleged motor vehicle violation, and does not issue a
154 Massachusetts Uniform Citation, he or she shall complete the Massachusetts Traffic Stop Data
155 Collection Form that records at least the following:

156

157 (a) the identifying characteristics of the individuals who are stopped, including the race or
158 ethnicity, and gender of the individual;

159

160 (b) the reason for the traffic stop;

161

162 (c) the location and time of the traffic stop;

163

164 (d) whether a search was initiated as a result of the stop, and whether it was with consent
165 or by other means;

166

167 (e) whether or not contraband was found during a search, and, if so, the type and amount
168 of contraband seized;

169

170 (f) the name and badge number of the officer initiating the stop.

171

172 (3) Within 90 days of the effective date of this section, and with input from the Traffic Data Review
173 Committee and the Executive Office of Public Safety and Security, the Registry of Motor Vehicles
174 shall revise the Massachusetts Uniform Citation and Massachusetts Traffic Stop Data Collection
175 Form as necessary to include fields that permit officers to capture the data described in subsections
176 (D)(1) and (D)(2).

177

178 (4) Within 90 days of the effective date of this section, and with input from the Traffic Data Review
179 Committee, the Executive Office of Public Safety and Security shall develop a uniform protocol for
180 state police and municipal police officers on how to use the Massachusetts Uniform Citation and the
181 Massachusetts Traffic Stop Data Collection Form to record the data described in subsections (D)(1)
182 and (D)(2).

183

184 (5) Every law enforcement agency shall compile and transmit the data described in subsection
185 (D)(1) to the Registry of Motor Vehicles. The Registry of Motor Vehicles shall maintain all data from
186 citations and warnings in an electronically accessible database, and shall report that information

187 monthly to the Secretary of the Executive Office of Public Safety, who shall transmit such data when
188 appropriate to the Attorney General.

189

190 (6) Every law enforcement agency shall compile the data described in subsection (D)(2) in an
191 electronically accessible data base, and shall transmit the data semiannually to the Secretary of the
192 Executive Office of Public Safety and Security, who shall transmit such data when appropriate to the
193 Attorney General.

194 (E) Data Analysis.

195

196 (1) On an annual basis, every law enforcement agency collecting data pursuant to this section shall
197 issue a summary report of the data collected for the fiscal year, and shall submit the report to the
198 Secretary of the Executive Office of Public Safety and Security. The summary report shall include a
199 monthly breakdown by race, for each police department, of the number of traffic stops made, the
200 number of searches conducted, and any other information deemed appropriate by the Attorney
201 General with the advice of the Traffic Data Review Committee. The report shall be submitted not
202 more than 90 days after the end of each fiscal year. No information revealing the identity of any
203 individual shall be contained in the report. The reports submitted pursuant to this subsection shall be
204 deemed public records.

205

206 (2) Every law enforcement agency collecting data pursuant to this section shall ensure that
207 supervisory personnel review each officer's stop and search documentation to ensure compliance with
208 the documentation requirements of this section. Such review shall occur at least as frequently as
209 review by supervisory personnel of officer compliance with other written documentation
210 requirements, but no less frequently than twice a month, in accordance with the policies of the
211 agency.

212

213 (3) The head of every law enforcement agency subject to this section, or his/her designee, shall
214 review the underlying data and summary reports collected and compiled pursuant to this section on a
215 regular basis in an effort to determine whether any racial disparities in the agency's traffic stops
216 enforcement exists, and to appropriately respond to any such disparities.

217

218 (4) On an annual basis, the Secretary of the Executive Office of Public Safety and Security shall
219 transmit the necessary data and reports collected by the Executive Office of Public Safety and Security
220 and the Registry of Motor Vehicles to a university in the Commonwealth with experience in the
221 analysis of such data, which shall prepare an analysis and a report. This analysis and report shall be
222 submitted to the Governor and the Traffic Data Review Committee not more than 90 days after

223 receipt of the data and reports by the university, and shall be deemed a public record. The report shall
224 include a multivariate analysis of the collected data in accordance with general statistical standards,
225 and will identify statistically significant disparities. The following list, which is illustrative, and not
226 exclusive, contains examples of areas in which statistically significant disparities may be
227 evaluated:

228

- 229 (a) The percentage of minority drivers or passengers being stopped in a given area is
230 substantially higher than the proportion constituted by the minority population within
231 the overall population residing in or traveling through that area.
- 232 (b) A disparity between the frequency of stops of minorities not resulting in the issuance
233 of a traffic ticket or the making of an arrest, and the proportion of minorities within
234 the overall population residing in or traveling through that area.
- 235 (c) A disparity between the proportion of citations issued to minorities and the
236 proportion of minorities within the population residing in or traveling through that
237 area.
- 238 (d) A disparity among particular officers employed within the same law enforcement
239 agency with regard to the number of minority drivers or passengers they stop within
240 in a given area.
- 241 (e) A disparity between the frequency of searches performed on minority drivers and the
242 frequency of searches performed on non-minority drivers.

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244

245 (F) Data Availability.

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247 Any individual charged with a criminal offense based on evidence or statements obtained as the result of
248 a motor vehicle stop, shall have the right to obtain data collected pursuant to this section concerning any
249 officer who participated in the stop or the search that resulted in the seizure of evidence, from the
250 Registry of Motor Vehicles, the Executive Office of Public Safety and Security, and from the law
251 department agency or the department of the officer(s) involved in the traffic stop or search, except that
252 information revealing the name, date of birth, and driver's license number of individuals involved in
253 motor vehicle stops who are not law enforcement officers or their agents shall not be disclosed.

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255

256 SECTION 2. Sections 1 and 9 of Chapter 228 of the Acts of 2000 are hereby repealed.