

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Sonia Chang-Díaz**

*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:

Sonia Chang-Díaz

DISTRICT/ADDRESS:

Second 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  
2 section:

3

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

5

6 (A) Findings.

7

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

10

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

14

15           (3) Statistical evidence from Massachusetts demonstrates that racial disparities in the stopping and  
16 searching of cars are prevalent. Specifically, the study authorized pursuant to Massachusetts Chapter  
17 228 of the Laws of 2000 found that 249 of the Commonwealth's 366 law enforcement agencies issued

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

20

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

24

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

29

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

33

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

37

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

40

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

42

43 (B) Ban on racial profiling.

44

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

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

55

56 (C) Traffic Data Review Committee.

57

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

62

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

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

67

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

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

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

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

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

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

81

82 (h) two members of community and/or civil rights advocacy organizations appointed by the  
83 Governor; and  
84

85 (i) one member of the Massachusetts academic community with specific expertise in both  
86 statistical analysis and law enforcement, appointed by the Governor.  
87

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

91

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

95

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

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98 (a) to operate solely as an advisory body. Any proposed changes to rules and policy  
99 promoted by the Traffic Data Review Committee will constitute "recommendations,"  
100 which may be reported to the Governor, the Secretary of Public Safety, and the General  
101 Court and/or to law enforcement agencies and other entities identified as appropriate  
102 by the Traffic Data Review Committee;  
103

104 (b) to promulgate model policies for law enforcement agencies that are designed to protect  
105 individuals' civil rights related to law enforcement practices and to recommend to law  
106 enforcement agencies model rules necessary to effectuate training on data collection  
107 and analysis, and mechanisms to engage agencies that fail to fulfill the requirements of  
108 this section;  
109

110 (c) to identify and recommend best practices for traffic stop data collection and analysis,  
111 including best practices for making use of advanced technologies;  
112

113 (d) to review reports compiled pursuant to subsection (E)(1) and (E)(4), and, as necessary,  
114 other data or reports collected or compiled pursuant to this section, and to consider and  
115 propose solutions to identify, eliminate and prevent racial profiling;  
116

117 (e) to support and encourage law enforcement agencies in their outreach to local  
118 communities concerning a) the goals of traffic enforcement, b) perceived racial and  
119 ethnic disparities in traffic stops and other law enforcement activities, and c) strategies  
120 for monitoring and reducing such disparities where found to exist;  
121

122 (f) to review reports, analysis, recommendations, and conclusions formulated in  
123 connection with the implementation of Massachusetts Chapter 228 of the Laws of 2000,  
124 and to consider such reports, analysis, recommendations and conclusions in executing  
125 the powers, duties, and responsibilities under this subsection; and  
126

127 (g) to annually issue a report to the Governor regarding the Traffic Data Review  
128 Committee's activities during the previous fiscal year.  
129

130 (D) Ongoing Data Collection.

131

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

135

136 (a) the identifying characteristics of the individuals who receive a warning or a citation, or  
137 who were arrested, including the race or ethnicity and the gender of the individual;  
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139 (b) the reason for the traffic stop;  
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141 (c) the location and time of the traffic stop;  
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143 (d) whether a search was initiated as a result of the stop, and whether it was with consent  
144 or by other means;  
145

146 (e) whether or not contraband was found during a search, and, if so, the type and amount  
147 of contraband seized;  
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149 (f) whether the stop resulted in a warning, citation or arrest;  
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151 (g) the name and badge number of the officer initiating the stop.  
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153 (2) Within 90 days of the effective date of this section, whenever a state or municipal law  
154 enforcement officer stops a motorist for an alleged motor vehicle violation, and does not issue a  
155 Massachusetts Uniform Citation, he or she shall complete the Massachusetts Traffic Stop Data  
156 Collection Form that records at least the following:

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

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161 (b) the reason for the traffic stop;

162

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

164

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

167

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

170

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

172

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

178

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

184

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

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

190

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

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199 (E) Data Analysis.

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

210

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

217

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



222

223 (4) On an annual basis, the Secretary of the Executive Office of Public Safety and Security shall  
224 transmit the necessary data and reports collected by the Executive Office of Public Safety and Security  
225 and the Registry of Motor Vehicles to a university in the Commonwealth with experience in the  
226 analysis of such data, which shall prepare an analysis and a report. This analysis and report shall be  
227 submitted to the Governor and the Traffic Data Review Committee not more than 90 days after  
228 receipt of the data and reports by the university, and shall be deemed a public record. The report shall  
229 include a multivariate analysis of the collected data in accordance with general statistical standards,  
230 and will identify statistically significant disparities. The following list, which is illustrative, and not  
231 exclusive, contains examples of areas in which statistically significant disparities may be  
232 evaluated:

233

- 234 (a) The percentage of minority drivers or passengers being stopped in a given area is  
235 substantially higher than the proportion constituted by the minority population within  
236 the overall population residing in or traveling through that area.
- 237 (b) A disparity between the frequency of stops of minorities not resulting in the issuance  
238 of a traffic ticket or the making of an arrest, and the proportion of minorities within  
239 the overall population residing in or traveling through that area.
- 240 (c) A disparity between the proportion of citations issued to minorities and the  
241 proportion of minorities within the population residing in or traveling through that  
242 area.
- 243 (d) A disparity among particular officers employed within the same law enforcement  
244 agency with regard to the number of minority drivers or passengers they stop within  
245 in a given area.
- 246 (e) A disparity between the frequency of searches performed on minority drivers and the  
247 frequency of searches performed on non-minority drivers.
- 248

249

250 (F) Data Availability.

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

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