

**HOUSE . . . . . No. 3842**

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Nine**  
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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  
2 new section:

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

5 (A) Findings.

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

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

12 (3) Statistical evidence from Massachusetts demonstrates that racial disparities in the  
13 stopping and searching of cars are prevalent. Specifically, the study authorized pursuant to

14 Massachusetts Chapter 228 of the Laws of 2000 found that 249 of the Commonwealth's 366 law  
15 enforcement agencies issued citations to and/or searched non-white motorists in ratios  
16 disproportionate to the portion constituted by those individuals in the corresponding population.

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

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

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

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

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

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

35 (B) Ban on racial profiling.

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

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

45 (C) Traffic Data Review Committee.

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

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

51 two legislators appointed by the General Court leadership, one member from each house;

52 the Attorney General or his or her designee;

53 the Secretary of the Executive Office of Public Safety and Security or his or her

54 designee;

55 the Registrar of the Registry of Motor Vehicles or his or her designee;  
56 the Director of the Massachusetts State Police or his or her designee;  
57 Chief Counsel of the Committee for Public Counsel Services or his or her designee;  
58 two members of local or municipal law enforcement agencies, representing jurisdictions  
59 of varied size and geography, appointed by the Governor;  
60 two members of community and/or civil rights advocacy organizations appointed by the  
61 Governor; and  
62 one member of the Massachusetts academic community with specific expertise in both  
63 statistical analysis and law enforcement, appointed by the Governor.

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

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

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

72 to operate solely as an advisory body. Any proposed changes to rules and policy  
73 promoted by the Traffic Data Review Committee will constitute “recommendations,” which may  
74 be reported to the Governor, the Secretary of Public Safety, and the General Court and/or to law

75 enforcement agencies and other entities identified as appropriate by the Traffic Data Review  
76 Committee;

77 to promulgate model policies for law enforcement agencies that are designed to protect  
78 individuals' civil rights related to law enforcement practices and to recommend to law  
79 enforcement agencies model rules necessary to effectuate training on data collection and  
80 analysis, and mechanisms to engage agencies that fail to fulfill the requirements of this section;

81 to identify and recommend best practices for traffic stop data collection and analysis,  
82 including best practices for making use of advanced technologies;

83 to review reports compiled pursuant to subsection (E)(1) and (E)(4), and, as necessary,  
84 other data or reports collected or compiled pursuant to this section, and to consider and propose  
85 solutions to identify, eliminate and prevent racial profiling;

86 to support and encourage law enforcement agencies in their outreach to local  
87 communities concerning a) the goals of traffic enforcement, b) perceived racial and ethnic  
88 disparities in traffic stops and other law enforcement activities, and c) strategies for monitoring  
89 and reducing such disparities where found to exist;

90 to review reports, analysis, recommendations, and conclusions formulated in connection  
91 with the implementation of Massachusetts Chapter 228 of the Laws of 2000, and to consider  
92 such reports, analysis, recommendations and conclusions in executing the powers, duties, and  
93 responsibilities under this subsection; and

94 to annually issue a report to the Governor regarding the Traffic Data Review  
95 Committee's activities during the previous fiscal year.

96 (D) Ongoing Data Collection.

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

100 the identifying characteristics of the individuals who receive a warning or a citation, or  
101 who were arrested, including the race or ethnicity and the gender of the individual;

102 the reason for the traffic stop;

103 the location and time of the traffic stop;

104 whether a search was initiated as a result of the stop, and whether it was with consent or  
105 by other means;

106 whether or not contraband was found during a search, and, if so, the type and amount of  
107 contraband seized;

108 whether the stop resulted in a warning, citation or arrest;

109 the name and badge number of the officer initiating the stop.

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

114 the identifying characteristics of the individuals who are stopped, including the race or  
115 ethnicity, and gender of the individual;

116 the reason for the traffic stop;

117 the location and time of the traffic stop;

118 whether a search was initiated as a result of the stop, and whether it was with consent or  
119 by other means;

120 whether or not contraband was found during a search, and, if so, the type and amount of  
121 contraband seized;

122 the name and badge number of the officer initiating the stop.

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

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

133 (5) Every law enforcement agency shall compile and transmit the data described in  
134 subsection (D)(1) to the Registry of Motor Vehicles. The Registry of Motor Vehicles shall  
135 maintain all data from citations and warnings in an electronically accessible database, and shall

136 report that information monthly to the Secretary of the Executive Office of Public Safety, who  
137 shall transmit such data when appropriate to the Attorney General.

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

142 (E) Data Analysis.

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

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



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

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

172           The percentage of minority drivers or passengers being stopped in a given area is  
173     substantially higher than the proportion constituted by the minority population within the overall  
174     population residing in or traveling through that area.

175           A disparity between the frequency of stops of minorities not resulting in the issuance of a  
176     traffic ticket or the making of an arrest, and the proportion of minorities within the overall  
177     population residing in or traveling through that area.

178           A disparity between the proportion of citations issued to minorities and the proportion of  
179     minorities within the population residing in or traveling through that area.

180           A disparity among particular officers employed within the same law enforcement agency  
181 with regard to the number of minority drivers or passengers they stop within in a given area.

182           A disparity between the frequency of searches performed on minority drivers and the  
183 frequency of searches performed on non-minority drivers.

184           (F) Data Availability.

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

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