

**SENATE . . . . . No. 2309**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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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) Ban on racial profiling.

6           (1) No state, municipal, college or university law enforcement officer or law  
7 enforcement agency shall engage in racial profiling.

8           (2) As used in this section, “racial profiling” means the practice by a state, municipal,  
9 college or university law enforcement officer or state, municipal, college or university police  
10 department of relying to any degree on race, ethnicity, or national origin in deciding who should  
11 be subject to traffic stops, pedestrian stops, frisks and other types of bodily searches, interviews,  
12 and searches and seizures of motorists, passengers, and motor vehicles, except when such  
13 characteristics are used in combination with other identifying factors in seeking to apprehend a

14 specific suspect whose racial, ethnic or national origin status is part of the description of the  
15 suspect, which description is particularized, timely and reliable.

16 (B) Traffic Data Review Committee.

17 (1) There is created a Traffic Data Review Committee, consisting of not more than 13  
18 members, which shall independently exercise its powers, duties, and responsibilities. The Traffic  
19 Data Review Committee shall have the authority to allow additional participation from various  
20 groups that the Committee deems necessary for additional input.

21 (2) The Traffic Data Review Committee shall consist of:

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

23 the Attorney General or his or her designee;

24 the Secretary of Public Safety and Security or his or her designee, who shall serve as  
25 chair;

26 the Registrar of the Registry of Motor Vehicles or his or her designee;

27 the Director of the Massachusetts State Police or his or her designee;

28 Chief Counsel of the Committee for Public Counsel Services or his or her designee;

29 two members of local or municipal law enforcement agencies, representing jurisdictions  
30 of varied size and geography, appointed by the Governor;

31 one member of the Massachusetts Chiefs of Police Association;

32 two members of community and/or civil rights advocacy organizations appointed by the  
33 Governor; and

34 one member of the Massachusetts academic community with specific expertise in both  
35 statistical analysis and law enforcement, appointed by the Governor.

36 Members of the Traffic Data Review Committee shall be appointed within 10 days of the  
37 effective date of this act.

38 (3) All Traffic Data Review Committee members shall serve, without compensation,  
39 for two years and until their successors are appointed. Members may be reappointed for an  
40 unlimited number of terms. The Traffic Data Review Committee shall meet at least quarterly.  
41 The Executive Office of Public Safety and Security shall provide staff and administrative  
42 services for the Traffic Data Review Committee.

43 (4) The Traffic Data Review Committee shall have the following powers, duties, and  
44 responsibilities:

45 to operate solely as an advisory body. Any proposed changes to rules and policy  
46 promoted by the Traffic Data Review Committee will constitute “recommendations,” which may  
47 be reported to the Governor, the Secretary of Public Safety and Security, and the General Court  
48 and/or to state or municipal police departments and other entities identified as appropriate by the  
49 Traffic Data Review Committee;

50 to promulgate model policies for state, municipal, college or university police  
51 departments that are designed to protect individuals' civil rights related to law enforcement  
52 practices with regard to traffic stops and to recommend to state, municipal, college and

53 university police departments model rules necessary to effectuate training on data collection and  
54 analysis, and mechanisms to engage agencies that fail to fulfill the requirements of this section;

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

57 to review reports compiled pursuant to subsection (D)(1) and (D)(4), and, as necessary,  
58 other data or reports collected or compiled pursuant to this section, and to consider and propose  
59 solutions to identify, eliminate and prevent racial profiling;

60 to support and encourage state, municipal, college and university police departments in  
61 their outreach to local communities concerning a) the goals of traffic enforcement, b) perceived  
62 racial and ethnic disparities in traffic stops and other law enforcement activities, and c) strategies  
63 for monitoring and reducing such disparities where found to exist;

64 to review reports, analyses, recommendations, and conclusions compiled using data  
65 collected in connection with the implementation of Massachusetts Chapter 228 of the Laws of  
66 2000, and to consider such reports, analysis, recommendations and conclusions in executing the  
67 powers, duties, and responsibilities under this subsection; and

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

70 (C) Ongoing Data Collection.

71 (1) Whenever a Massachusetts Uniform Citation, or any successor citation, is issued  
72 by any state, municipal, college or university law enforcement officer for an alleged motor

73 vehicle violation, the following data shall be recorded: the race, ethnicity, and gender of the  
74 motorist;

75 the reason for the traffic stop;

76 the location and time of the traffic stop;

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

79 whether or not contraband was found during a search;

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

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

82 The electronic motor vehicle accident, violation and citation system established under  
83 section 183 of chapter 6 shall require that the data set forth in subsections (1)(a) through (1)(g) of  
84 this section be recorded.

85 (2) Whenever a state, municipal, college or university law enforcement officer stops a  
86 motorist for an alleged motor vehicle violation, and does not issue a Massachusetts Uniform  
87 Citation, or any successor citation, he or she shall complete the Massachusetts Traffic Stop Data  
88 Collection Form, or any successor form or electronic equivalent, that records at least the  
89 following:

90 the race, ethnicity, and gender of the motorist;

91 the reason for the traffic stop;

92 the location and time of the traffic stop;

93 whether a search was initiated as a result of the stop, and whether it was with consent or

94 by other means;

95 whether or not contraband was found during a search;

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

97 The electronic motor vehicle accident, violation and citation system established under

98 section 183 of chapter 6 shall require that the data set forth in subsections (2)(a) through (2)(g) of

99 this section be recorded.

100 (3) With input from the Traffic Data Review Committee and the Executive Office of

101 Public Safety and Security, and prior to the date when recording of the data described in

102 subsections (C)(1) and (C)(2) shall begin, the Registry of Motor Vehicles shall revise the

103 Massachusetts Uniform Citation, or any successor citation, and the Massachusetts Traffic Stop

104 Data Collection Form, or any successor form or electronic equivalent, as necessary to include

105 fields that permit officers to capture the data described in subsections (C)(1) and (C)(2).

106 (4) With input from the Traffic Data Review Committee, and prior to the date when

107 recording of the data described in subsections (C)(1) and (C)(2) shall begin, the Executive Office

108 of Public Safety and Security shall develop a uniform protocol for state, municipal, college and

109 university law enforcement officers on how to use the Massachusetts Uniform Citation, or any

110 successor citation, and the Massachusetts Traffic Stop Data Collection Form, or any successor

111 form or electronic equivalent, to record the data described in subsections (C)(1) and (C)(2).

112           (5)     The state police department and every municipal, college and university police  
113 department shall regularly, and no less than monthly, compile and transmit the data described in  
114 subsection (C)(1) to the Registry of Motor Vehicles. The Registry of Motor Vehicles shall  
115 maintain all data from citations and warnings in an electronically accessible database and shall  
116 report that information monthly to the Secretary of Public Safety and Security, who shall  
117 transmit such data to the Attorney General in conformity with applicable laws and regulations.  
118 The electronic motor vehicle accident, violation and citation system set forth in section 183 of  
119 chapter 6 shall include such mechanisms as may be necessary for the compilation and  
120 transmission, by the state police department and all municipal, college and state police  
121 departments, of the data described in subsection (C)(1).

122           (6)     The state police department and all municipal, college and university police  
123 departments shall compile the data described in subsection (C)(2) in an electronically accessible  
124 database and shall transmit the data semiannually to the Secretary of Public Safety and Security,  
125 who shall transmit such data to the Attorney General in conformity with applicable laws and  
126 regulations. The electronic motor vehicle accident, violation and citation system established  
127 under section 183 of chapter 6 shall include such mechanisms as may be necessary for the  
128 compilation and transmission, by the state police department and all municipal, college and  
129 university police departments, of the data described in subsection (C)(2)

130           (D) Data Analysis.

131           (1)     The state police department and each municipal, college and university police  
132 department subject to this section shall issue an annual summary report of the data collected  
133 within its jurisdiction for the fiscal year and shall submit the report to the Secretary of Public

134 Safety and Security. Each reporting police department's summary report shall include, for each  
135 month, statistical data setting out the number of traffic stops made, the number of searches  
136 conducted, the race of the drivers stopped, the race of the drivers searched, and any other  
137 information as may be requested by the Traffic Data Review Committee. The report shall be  
138 submitted not more than 90 days after the end of each fiscal year, including the first fiscal year-  
139 end following the effective date of this act, regardless of whether data based on a full fiscal year  
140 is available. No information revealing the identity of any individual shall be contained in the  
141 report. The reports submitted pursuant to this subsection shall be public records.

142 (2) The state police department and each municipal, college and university police  
143 department subject to this section shall ensure that supervisory personnel review each officer's  
144 stop and search documentation on at least a quarterly basis to ensure compliance with the  
145 documentation requirements of this section.

146 (3) The heads of the state police department and each municipal, college and  
147 university police department subject to this section, or his/her designee, shall review the  
148 underlying data and summary reports collected and compiled pursuant to this section on a regular  
149 basis in an effort to determine whether any racial disparities in the department's traffic stops  
150 exist, and to appropriately respond to any such disparities.

151 (4) On an annual basis, the Secretary of Public Safety and Security shall transmit the  
152 data collected by the state police department and by each municipal, college and university  
153 police department in accordance with this act to a university in the Commonwealth with  
154 experience in the analysis of such data, which shall prepare an analysis and a report. This  
155 analysis and report shall be submitted to the Governor and the Traffic Data Review Committee



156 not more than 90 days after receipt of the data by the university, and shall be deemed a public  
157 record. The report shall include a multivariate analysis of the collected data in accordance with  
158 general statistical standards, and will identify statistically significant disparities. The following  
159 list, which is illustrative, and not exclusive, contains examples of areas in which statistically  
160 significant disparities may be evaluated:

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

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

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

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

171           A disparity between the frequency of searches performed on minority drivers and the  
172 frequency of searches performed on non-minority drivers.

173           (E) Data Availability.

174           Any individual charged with a criminal offense based on evidence or statements obtained  
175 as the result of a motor vehicle stop shall have the right to obtain data collected pursuant to this  
176 section concerning any officer who participated in the stop or the search that resulted in the

177 seizure of evidence, from the Registry of Motor Vehicles, the Executive Office of Public Safety  
178 and Security, and from the police department or the department of the officer(s) involved in the  
179 traffic stop or search, except that information revealing the name, date of birth, and driver's  
180 license number of individuals involved in motor vehicle stops who are not law enforcement  
181 officers or their agents shall not be disclosed.

182 (F) Enforcement.

183 The attorney general may bring a civil action in the superior court for injunctive or other  
184 appropriate equitable relief to enforce the provisions of this section. A person claiming to be  
185 aggrieved by a violation of this section may not institute a personal action for damages or other  
186 relief under this section, but nothing in this paragraph shall be construed to limit any other rights  
187 or remedies of such person, including, but not limited to, a civil action for a violation of  
188 constitutional rights under section 11I of chapter 12 or 42 U.S.C. § 1983 or motions for  
189 suppression or dismissal in a criminal case.

190 The attorney general shall issue an annual summary report of the complaints received  
191 concerning the enforcement of the provisions of this section and the actions taken with respect to  
192 such complaints. The report shall be submitted to the Traffic Data Review Committee not more  
193 than 90 days after the end of each fiscal year, including the first fiscal year-end following the  
194 effective date of this act, regardless of whether data based on a full fiscal year is available. No  
195 information revealing the identity of any individual shall be contained in the report. The reports  
196 submitted pursuant to this subsection shall be public records.

197 SECTION 2. Section 183 of chapter 6, as appearing in the 2008 Official Edition, is  
198 hereby amended by inserting after the word "seventy-five", in line 13, the following words:- and

199 to develop, implement and purchase equipment for a system to electronically gather, record and  
200 report information concerning motor vehicle accidents, violations and traffic stops and to  
201 electronically issue motor vehicle citations

202 SECTION 3. Section 183 is hereby further amended by inserting after the word  
203 “expend”, in line 35, the following words:- for the development, implementation, purchase of  
204 equipment and analysis and reporting required by section 6A of chapter 90C by the executive  
205 office of public safety and security for a system to be made available to state, municipal, college  
206 and university police departments to electronically gather, record, report, and study information  
207 concerning motor vehicle accidents, violations and traffic stops and to electronically issue motor  
208 vehicle citations,

209 SECTION 4. Section 183 is hereby further amended by inserting after the word  
210 “commonwealth”, in line 39, the following words:- ; provided further, that any state, municipal,  
211 college or university police department that uses or receives equipment of said electronic motor  
212 vehicle accident, violation and citation system shall comply with section 6A of chapter 90C

213 SECTION 5. Section 183 is hereby further amended by striking out the last sentence and  
214 inserting in place thereof the following words:- Such estimated and actual costs shall include an  
215 amount equal to indirect costs, the cost of fringe benefits and the debt service costs associated  
216 with said electronic motor vehicle accident, violation and citations system, all as established by  
217 the secretary of administration and finance.

218 SECTION 6. Subsections (C)(1), (2), (5) and (6) shall become effective only upon the  
219 statewide implementation of the electronic motor vehicle accident, violation and citation system  
220 established under section 183 of chapter 6. Subject to section 183 of chapter 6, the executive

221 office of public safety and security shall implement the electronic motor vehicle accident,  
222 violation and citation system established under section 183 of chapter 6 within 1 year and 270  
223 days of the effective date of this act.

224 SECTION 7. Sections 1 and 9 of Chapter 228 of the Acts of 2000 shall be repealed upon  
225 implementation of the electronic motor vehicle accident, violation and citation system developed  
226 under section 183 of chapter 6 or within 90 days of the effective date of this section, whichever  
227 is sooner.