

SENATE No. 1409

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

4 (A) Findings.

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

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

10 (3) Statistical evidence from Massachusetts demonstrates that racial disparities in the stopping and
11 searching of cars are prevalent. Specifically, the study authorized pursuant to Massachusetts Chapter
12 228 of the Laws of 2000 found that 249 of the Commonwealth's 366 law enforcement agencies

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

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

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

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

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

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

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

31 (B) Ban on racial profiling.

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

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

41 (C) Traffic Data Review Committee.

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

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

- 47 (a) two legislators appointed by the General Court leadership, one member from each house;
- 48 (b) the Attorney General or his or her designee;
- 49 (c) the Secretary of the Executive Office of Public Safety and Security or his or her
50 designee;
- 51 (d) the Registrar of the Registry of Motor Vehicles or his or her designee;
- 52 (e) the Director of the Massachusetts State Police or his or her designee;
- 53 (f) Chief Counsel of the Committee for Public Counsel Services or his or her designee;
- 54 (g) two members of local or municipal law enforcement agencies, representing jurisdictions
55 of varied size and geography, appointed by the Governor;
- 56 (h) two members of community and/or civil rights advocacy organizations appointed by the
57 Governor; and

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

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

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

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

67 (a) to operate solely as an advisory body. Any proposed changes to rules and policy
68 promoted by the Traffic Data Review Committee will constitute “recommendations,”
69 which may be reported to the Governor, the Secretary of Public Safety, and the General
70 Court and/or to law enforcement agencies and other entities identified as appropriate by
71 the Traffic Data Review Committee;

72 (b) to promulgate model policies for law enforcement agencies that are designed to protect
73 individuals' civil rights related to law enforcement practices and to recommend to law
74 enforcement agencies model rules necessary to effectuate training on data collection and
75 analysis, and mechanisms to engage agencies that fail to fulfill the requirements of this
76 section;

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

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

- 82 (e) to support and encourage law enforcement agencies in their outreach to local
83 communities concerning a) the goals of traffic enforcement, b) perceived racial and
84 ethnic disparities in traffic stops and other law enforcement activities, and c) strategies
85 for monitoring and reducing such disparities where found to exist;
- 86 (f) to review reports, analysis, recommendations, and conclusions formulated in connection
87 with the implementation of Massachusetts Chapter 228 of the Laws of 2000, and to
88 consider such reports, analysis, recommendations and conclusions in executing the
89 powers, duties, and responsibilities under this subsection; and
- 90 (g) to annually issue a report to the Governor regarding the Traffic Data Review
91 Committee's activities during the previous fiscal year.

92 (D) Ongoing Data Collection.

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

- 96 (a) the identifying characteristics of the individuals who receive a warning or a citation, or
97 who were arrested, including the race or ethnicity and the gender of the individual;
- 98 (b) the reason for the traffic stop;
- 99 (c) the location and time of the traffic stop;
- 100 (d) whether a search was initiated as a result of the stop, and whether it was with consent or
101 by other means;
- 102 (e) whether or not contraband was found during a search, and, if so, the type and amount of
103 contraband seized;
- 104 (f) whether the stop resulted in a warning, citation or arrest;
- 105 (g) the name and badge number of the officer initiating the stop.

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

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

112 (b) the reason for the traffic stop;

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

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

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

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

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

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

129 (5) Every law enforcement agency shall compile and transmit the data described in subsection (D)(1)
130 to the Registry of Motor Vehicles. The Registry of Motor Vehicles shall maintain all data from
131 citations and warnings in an electronically accessible database, and shall report that information
132 monthly to the Secretary of the Executive Office of Public Safety, who shall transmit such data when
133 appropriate to the Attorney General.

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

138 (E) Data Analysis.

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

148 (2) Every law enforcement agency collecting data pursuant to this section shall ensure that
149 supervisory personnel review each officer's stop and search documentation to ensure compliance with
150 the documentation requirements of this section. Such review shall occur at least as frequently as
151 review by supervisory personnel of officer compliance with other written documentation

152 requirements, but no less frequently than twice a month, in accordance with the policies of the
153 agency.

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

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

168 (a) The percentage of minority drivers or passengers being stopped in a given area is
169 substantially higher than the proportion constituted by the minority population within
170 the overall population residing in or traveling through that area.

171 (b) A disparity between the frequency of stops of minorities not resulting in the issuance of
172 a traffic ticket or the making of an arrest, and the proportion of minorities within the
173 overall population residing in or traveling through that area.

174 (c) A disparity between the proportion of citations issued to minorities and the proportion
175 of minorities within the population residing in or traveling through that area.

176 (d) A disparity among particular officers employed within the same law enforcement
177 agency with regard to the number of minority drivers or passengers they stop within in
178 a given area.

179 (e) A disparity between the frequency of searches performed on minority drivers and the
180 frequency of searches performed on non-minority drivers.

181 (F) Data Availability.

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

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