

SENATE No. 1549

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

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 adoption of the accompanying bill:

An Act relative to traffic and pedestrian stop data.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>3/10/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>3/10/2021</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>3/12/2021</i>
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/18/2021</i>

SENATE No. 1549

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 1549) of Sonia Chang-Diaz, Harriette L. Chandler, Elizabeth A. Malia, Russell E. Holmes and others for legislation relative to traffic and pedestrian stop data. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to traffic and pedestrian stop data.

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

1 The General Laws, as appearing in the 2018 Official Edition, are hereby amended by
2 inserting after chapter 22E the following new chapter:-

3 Chapter 22F.

4 Section 1. For the purposes of this section, the following words shall have the following
5 meanings unless the context clearly requires otherwise:

6 (1) “Law enforcement entity” means any state, municipal, transit, college or university
7 law enforcement officer or state, municipal, college or university police department or a police
8 officer acting on behalf of such state, municipal, college or university police department.

9 (2) “Receipt” means a contemporaneous record of any traffic or pedestrian stop, to be
10 provided to the subject of the stop. A receipt shall at a minimum include the following data: the
11 reason for the stop; the date, time, and duration of the encounter; the street address or

12 approximate location of the encounter; and the name and badge number of the officer initiating
13 the stop. The receipt shall also include information about how to register commendations or
14 complaints regarding the encounter.

15 (3) “Driver” means an operator of a motor vehicle, motorized bicycle, or motorized
16 scooter under this chapter, or a bicycle, scooter, or other vehicle traveling on a way.

17 (4) “Frisk” means a pat-down to locate a weapon.

18 (5) “Executive office”, the executive office of public safety and security.

19 (6) “Secretary”, the secretary of public safety and security.

20 (7) “Pedestrian”, means an individual walking on a road, in a public transit station, or in
21 another public space.

22 Section 2.

23 (A) Data collection

24 (1) The secretary of public safety and security shall create and update as may be
25 appropriate an instrument to record statistical data for the police-civilian contacts covered by this
26 Act. This instrument shall, at minimum, include the data required to be collected by subsection
27 (A)(2). The secretary shall give due regard to census figures when setting forth the race and
28 ethnicity categories in the instrument and shall consider providing guidance about the manner in
29 which race and ethnicity information is identified and designated and collected, including by
30 individuals’ self-reporting of such categories; provided that, in all cases, the method of
31 identification of such data specified by the secretary must be the same across all law enforcement
32 entities and among different stop scenarios. The Massachusetts state police shall use this

33 instrument to collect data. Other law enforcement entities shall have the authority to create such
34 data collection instruments for their own use, provided that any such instrument (a) includes the
35 data required to be collected by subsection (A)(2) and (b) is submitted to and approved by the
36 secretary as meeting the requirements of this Act.

37 (2) Whenever an individual is stopped, frisked, or searched by any state, municipal,
38 transit, college or university law enforcement officer, including any time a frisk or search is
39 consensual, the officer shall record the following data:

40 (a) reason for any stop;

41 (b) date, time, and duration of the encounter;

42 (c) street address or approximate location of the encounter;

43 (d) the number of occupants of the vehicle, if stop was a vehicle;

44 (e) race, ethnicity, gender, and approximate age of the driver and/or pedestrian and any
45 person searched as part of that stop, which shall be based on the officer's observation and
46 perception and shall not be requested of the person unless otherwise required by law or
47 regulation;

48 (f) whether the driver and/or pedestrian, and any person searched, has limited English
49 language proficiency, based on the officer's observation and perception.

50 (g) whether any investigatory action was initiated, including a frisk or a search of an
51 individual or vehicle, and whether any such investigatory action was conducted with consent;

52 (h) whether contraband was found or any materials were seized;

53 (i) whether the stop resulted in a warning, citation, arrest, or no subsequent action;

54 (j) the name and badge number of the officer initiating the stop.

55 (3) For any stop that does not result in the issuance of a citation, the officer shall provide
56 a receipt to the subject at the conclusion of the stop.

57 (4) Each police department, not less frequently than quarterly, shall review each officer's
58 stop and search documentation to ensure compliance with this Act, review the entire
59 department's stop and search data, examine and analyze any racial or other disparities, and
60 formulate and implement an appropriate response.

61 (5) In the event that any two quarterly reviews of department-wide data in a one year
62 period evidence racial or other profiling as defined by Section 83 of Chapter 253 of the Acts of
63 2020, the department shall file a corrective action plan with the Peace Officer Training and
64 Standards Commission.

65 (B) Electronic data systems

66 Subsequent to passage of this act, any electronic systems developed for law enforcement
67 entities to issue citations, or to gather, record, report, and study information concerning vehicle
68 accidents, violations, traffic or pedestrian stops, or citations, shall be designed to:

69 (i) collect the data described in subsection (A) of this section;

70 (ii) automatically transmit such data to the executive office of public safety and security
71 as required by this section;

72 (iii) electronically generate citations and police encounter receipts.

73 Upon the adoption of such an electronic system by any police department, the department
74 shall record the data set forth in subsection (B) for all traffic and pedestrian stops. The
75 department shall transmit all such data by electronic means to the executive office of public
76 safety and security, at intervals to be determined by the Secretary but not less than semi-
77 annually.

78 (C) Data analysis and publication

79 All data collected pursuant to this chapter shall be analyzed and made publicly available
80 consistent with the standards described in section 10(f) of Chapter 122 of the Acts of 2019. The
81 analysis and report, and the collected data, excluding any data identifying a person by name or
82 address, shall be deemed a public record, and shall be published on the website of the executive
83 office of public safety and security. The report shall include a multivariate analysis of the
84 collected data in accordance with generally accepted statistical standards that seeks, to the extent
85 possible, to measure the roles of race, ethnicity, gender, and age as factors in law enforcement
86 entities' interactions with civilians, including but not limited to the frequency with which
87 individuals are stopped, frisked, searched, cited, or arrested. Such analysis shall include
88 consideration of the demographics of the population residing in or traveling through a particular
89 locale, local crime rates, the frequency with which encounters result in seizure of contraband or
90 arrest, and comparisons among similarly-situated officers.

91 (D) Data availability

92 Any individual charged with a criminal offense based on evidence or statements obtained
93 as the result of a traffic or pedestrian stop shall have the right to obtain data collected pursuant to
94 this section concerning any officer who participated in the stop or the search that resulted in the

95 seizure of evidence, from the executive office of public safety and security and from the police
96 department of the officer(s) involved in the stop or search; provided that information revealing
97 the name, street address, date of birth, and driver's license number of individuals involved in
98 stops who are not law enforcement officers or their agents shall not be disclosed; and provided
99 further that information revealing the home address, date of birth, personal telephone number or
100 any personal identifying information other than the name, badge number, and department of a
101 law enforcement officer shall not be disclosed. Requests for such data may specify a single or
102 multiple incidents, dates, locations or any other combination of data collected pursuant to
103 subsection (A).

104 (E) Enforcement

105 The attorney general may bring a civil action in the superior court for injunctive or other
106 appropriate equitable relief to enforce the provisions of this section. Nothing in this Act shall be
107 construed to limit an individual's rights or remedies, including, but not limited to, a civil action
108 for a violation of constitutional rights under section 11I of chapter 12 of the General Laws, as so
109 appearing, or 42 U.S.C. section 1983 or motions for suppression or dismissal or other relief in a
110 criminal case.

111 Section 3.Subsection (A) shall take effect 12 months from the effective date of this act, at
112 which time chapter 228 of the acts of 2000 shall be repealed.

113 Subsections (C) and (D) shall take effect at such time as the executive office of public
114 safety and security makes available to law enforcement agencies an electronic system described
115 in subsection (B).