

# 2011 -- H 5263 SUBSTITUTE A

LC00415/SUB A

## STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES - COMPREHENSIVE RACIAL  
PROFILING PREVENTION ACT OF 2010

Introduced By: Representatives Diaz, Slater, Valencia, Williams, and Blazejewski

Date Introduced: February 03, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Chapter 14-1 of the General Laws entitled "Proceedings in Family Court" is hereby amended by adding thereto the following section:

**14-1-25.1. Search of juveniles without warrant.** -- In the absence of a warrant, no juvenile shall be requested to consent to a search by a law enforcement officer unless there exists reasonable suspicion or probable cause of criminal activity. The determination of age of the individual shall be based on the perception of the officer making a good faith effort in advance of requesting consent. Nothing contained herein shall be construed to limit the restrictions contained in section 31-21.2-5.

SECTION 2. Sections 31-21.2-5, 31-21.2-6, 31-21.2-7 and 31-21.2-8 of the General Laws in Chapter 31-21.2 entitled "Racial Profiling Prevention Act of 2004" are hereby amended to read as follows:

**31-21.2-5. Law enforcement practices.** -- (a) Unless there exists reasonable suspicion or probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation. Nothing contained herein shall prohibit the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or subsequent criminal investigation, if there is reasonable suspicion or probable cause of criminal activity.

(b) No operator or owner-passenger of a motor vehicle shall be requested to consent to a

1 search by a law enforcement officer of his or her motor vehicle which is stopped solely for a  
2 traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity.

3 Commencing on January 1, 2013, the officer shall cause to be documented per department policy  
4 in writing his or her "reasonable suspicion" or "probable cause" grounds for conducting a search  
5 and the outcome of the search. The document shall be a public record, exclusive of personally  
6 identifiable information and except to the extent where it could reasonably be expected to  
7 interfere with an open investigation of criminal activity or enforcement proceedings, to disclose  
8 the identity of a confidential source, or to endanger the life or physical safety of any individual.  
9 The officer shall notify the dispatcher or supervising officer prior to conducting a search.

10 (c) No operator of a motor vehicle shall be requested to provide any documentation or  
11 identification other than a driver's license, motor vehicle registration, and/or proof of insurance  
12 when the motor vehicle has been stopped solely for a traffic violation, unless there exists  
13 reasonable suspicion or probable cause of criminal activity or the operator has failed to produce a  
14 valid driver's license.

15 (d) No passenger of a motor vehicle shall be requested to provide proof of identification  
16 or any other documentation by a law enforcement officer when the motor vehicle has been  
17 stopped unless there exists reasonable suspicion or probable cause of criminal activity. Nothing  
18 contained herein shall be construed to prohibit the officer from requesting the name and date of  
19 birth of the passenger(s); provided, however, that failure to respond to such a request shall not  
20 constitute reasonable suspicion or probable cause of criminal activity but may be a factor.

21 (e) If a violation of the traffic laws in this title is used to stop a motor vehicle for non-  
22 related investigatory reasons, the law enforcement officer shall document in writing the  
23 investigatory basis for the stop.

24 ~~(e)~~(f) Any evidence obtained as a result of a stop or search prohibited by ~~subsection~~  
25 subsections (a) ~~or (b)~~ through (e) shall be inadmissible in any judicial proceeding. Nothing  
26 contained herein shall be construed to preclude any search otherwise based upon any legally  
27 sufficient cause.

28 ~~(d)~~(g) Law enforcement agencies using video and/or audio surveillance cameras in their  
29 vehicles shall adopt written policies and procedures regarding the use of such cameras, which  
30 shall be public records.

31 (h) Law enforcement officers shall advise any motorist who is stopped of the reason for  
32 the stop.

33 (i) All law enforcement agencies must comply with state and federal guidelines related to  
34 the use and access of RILETS and NCIC.

(e)(i) The policies and procedures established by this section shall be added to, and prominently placed in, all relevant departmental policy and training manuals. Other appropriate training about the requirements of this chapter shall also be provided to all officers.

**31-21.2-6. Continued data collection.** -- (a) The office of highway safety of the Rhode Island ~~Justice-Commission~~ department of transportation is authorized to and shall conduct a study of routine traffic stops by the Rhode Island State Police and each municipal police department in order to determine whether racial profiling is occurring, and to examine whether searches of vehicles and motorists are being conducted in a disparate manner.

(b) The office of highway safety of the Rhode Island ~~Justice-Commission~~ department of transportation shall, ~~not later than forty five (45) days after enactment of this act~~ no later than January 1, 2012, develop a form or electronic equivalent to be used by each police officer when making a traffic stop to record the data required under this chapter, which form shall include for each motor vehicle stop, the race and ethnicity of the driver and of any passengers based upon the officer's perception, and the information listed in section 31-21.1-4.

(c) The office of highway safety of the Rhode Island ~~Justice-Commission~~ department of transportation shall advise the Rhode Island State Police and each municipal police department of the date that data collection shall commence. Data collection shall begin not later than ~~October 1, 2004~~ February 1, 2012, but may begin prior to that time upon notification to police departments from the office of highway safety of the Rhode Island ~~Justice-Commission~~ department of transportation.

(d) A traffic stop data collection card or electronic equivalent shall be completed for each routine traffic stop by the Rhode Island State Police and municipal police department during the term of this study.

(e) Upon commencement of data collection, and monthly thereafter, each municipal police department and the Rhode Island State Police shall transmit to the office of highway safety of the Rhode Island ~~Justice-Commission~~ department of transportation all forms or electronic data collected to date of motorists who were stopped, and any other information the police department or the Rhode Island State Police deem appropriate. Data collection shall continue for ~~twelve (12)~~ forty-eight (48) months following commencement of data collection.

(f) Appropriate funding shall be made available to implement the provision of this chapter, and completion of this study shall be contingent upon such funding.

(g) The study shall include a multivariate analysis of the collected data in accordance with general statistical standards, and shall be substantially similar to the study prepared pursuant to chapter 21.1 of this title. The study shall be prepared by an organization, company, person or

1 other entity with sufficient expertise in the field of statistics and the study of traffic stop data  
2 collection to assist with the implementation of this chapter, and chosen by the [office of highway](#)  
3 [safety of the](#) Rhode Island ~~Justice-Commission~~ [department of transportation](#). The study shall be  
4 released [on an annual basis, with the first released](#) not later than eighteen (18) months after  
5 commencement of data collection under this chapter. The report, findings and conclusions  
6 submitted pursuant to this subsection shall be a public record.

7 (h) The [office of highway safety of the](#) Rhode Island ~~Justice-Commission~~ [department of](#)  
8 [transportation](#) shall be exempt from the provisions of chapter 2 of title 37 in connection with its  
9 procurement of equipment and services necessary to the implementation of this chapter.

10 (i) On a quarterly basis a summary report of the monthly data provided by each police  
11 department and the state police for that quarterly period shall be issued. The report shall be a  
12 public record. The summary report shall include a monthly breakdown by race, [age, gender and](#)  
13 [outcome for operators and may be limited to race for passenger\(s\)](#) for each police department of  
14 the number of traffic stops made and of searches conducted, and any other information deemed  
15 appropriate by the [office of highway safety of the](#) Rhode Island ~~Justice-Commission~~ [department](#)  
16 [of transportation](#). [For those police departments collecting data through the use of mobile display](#)  
17 [terminals in police vehicles, the report shall also include a breakdown by race and outcome for](#)  
18 [operators and may be limited to race for passenger\(s\)](#). The report shall be released not more than  
19 ninety (90) days after the end of each quarterly period. No information revealing the identity of  
20 any individual shall be contained in the report.

21 (j) Every law enforcement agency collecting data pursuant to this chapter shall ensure  
22 that supervisory personnel review each officer's stop and search documentation and data results  
23 on a ~~weekly~~ [monthly](#) basis to ensure compliance with all policies, prohibitions and documentation  
24 requirements.

25 (k) The head of every law enforcement agency subject to this chapter, or his or her  
26 designee, shall review the data on a regular basis in an effort to determine whether any racial  
27 disparities in the agency's traffic stops enforcement exists, and to appropriately respond to any  
28 such disparities. [It is understood that disparities may or may not equate to racial profiling.](#)

29 (l) An organization chartered for the purpose of combating discrimination, racism, or of  
30 safeguarding civil liberties, or of promoting full, free, or equal employment opportunities, and/or  
31 the [office of highway safety of the](#) Rhode Island ~~Justice-Commission~~ [department of transportation](#)  
32 may seek appropriate relief in a civil action against any police department for failing to collect or  
33 transmit the data required in this chapter, and may be awarded its costs, including attorneys' fees,  
34 for bringing such an action. As a condition precedent to the filing of a civil action by an

1 organization under this section, the organization shall send a notice to the Rhode Island ~~Justice~~  
2 ~~Commission~~ department of transportation identifying the police department which is failing to  
3 collect or transmit the data and the organization shall then allow fifteen (15) days to elapse.

4 (m) The Rhode Island ~~Justice-Commission~~ department of transportation shall consult  
5 with community, police and civil rights representatives, ~~as to the extent~~ the executive director  
6 deems appropriate, in the development of the form required by subsection (b) and , on at least a  
7 quarterly basis shall consult on other issues that arise relating to the implementation and  
8 enforcement of this chapter, including the information generated by the issuance of the reports  
9 required by paragraph (i).

10 **31-21.2-7. Data collection and use. --** (a) ~~Data acquired under this chapter shall not be~~  
11 ~~used in any legal proceeding to establish an inference of discrimination except by court order;~~  
12 ~~provided, however, that use of the data for this purpose shall be allowed only upon completion of~~  
13 ~~the study authorized by section 31-21.2-6.~~ Data acquired under this chapter shall not be used in  
14 any civil proceeding to establish or rebut an inference of discrimination except by court order or  
15 when otherwise admissible in accordance with rules of civil procedure. All data collected  
16 pursuant to this chapter shall be public. For those motor vehicle stops where a citation was issued  
17 or an arrest was made, the forms prepared pursuant to section 31-21.2-6(b) of this chapter shall  
18 include a citation or arrest number for reference. The data collection form shall not include the  
19 name or badge number of the officer completing the form. The report from the department DOT  
20 shall not be officer specific.

21 (b) Any police officer who in good faith records traffic stop information pursuant to the  
22 requirements of this chapter shall not be held civilly liable for the act of recording the information  
23 unless the officer's conduct was reckless.

24 (c) All police departments shall submit to the office of highway safety on an annual basis  
25 beginning on January 15, 2012, and for four (4) years following the conclusion of data collection,  
26 a report indicating what action, if any, has been taken, to address any racial disparities in traffic  
27 stops and/or searches documented in the studies authorized by sections 31-21.1-4 and 31-21.2-6,  
28 and to otherwise implement any recommendations of those studies, including, but not limited to,  
29 any changes to agency policies; revisions to traffic enforcement practices; detailed analysis and  
30 review of traffic stop data, and the results of such review; or the initiation of any disciplinary  
31 action. Any reference to disciplinary action shall not identify the officer. The office of highway  
32 safety shall issue guidelines for police departments to follow in preparing these reports. The  
33 reports shall be public records, and shall contain a certification that the department has complied  
34 with subsections (j) and (k) of section 31-21.2-6.

(d) Every nine (9) months, each state and municipal law enforcement agency shall submit to the office of highway safety of the Rhode Island department of transportation, on a brief form prepared by that office, information summarizing what, if any, actions were taken by the agency in response to racial disparities documented in the previous reports issued pursuant to subsection 31-21.2-6(i). The summary shall include, but not be limited to: any changes to agency policies; revisions to traffic enforcement practices; detailed analysis and review of traffic stop data, and the results of such review; or the initiation of any disciplinary action. Any references to disciplinary action shall not identify the officer. The forms shall be public records, and shall contain a certification that the department has complied with subsections (j) and (k) of section 31-21.2-6.

**31-21.2-8. ~~Complaint procedures.~~ Complaint procedures and recordkeeping requirements.** -- (a) Each state and municipal law enforcement agency shall establish a

procedure to investigate complaints of police misconduct by members of the public against personnel of these agencies, and shall make a written description of the procedure available to the public. Copies of any departmental complaint forms shall be available in at least one governmental location other than the police department. The procedure and forms shall also be made available on any website of a law enforcement agency.

(b) At a minimum, complaints shall be accepted in person by mail or by facsimile.

(c) Information on the complaints received by each law enforcement agency shall be submitted on an annual basis under uniform criteria established by the ~~Select Commission on Race and Police-Community Relations~~ Rhode Island justice commission. The information provided by each department shall include the total number of complaints received, a breakdown by category of the type of complaint and a further breakdown by category of the disposition of the complaints. The commission shall publish data regarding complaints of police misconduct pursuant to this section.

(d) The state police and all municipal law enforcement agencies shall submit to the commission:

(1) Copies of any formal or informal arrangements between the state police or a municipal law enforcement agency and the bureau of immigration and customs enforcement concerning the questioning, detention, investigation, arrest, apprehension, stopping, referral or processing of individuals with the state of Rhode Island, including copies of any agreements entered into pursuant to 8 U.S.C. section 1357(g); and

(2) Any policies or procedures governing the circumstances under which an inquiry to federal authorities is made to determine a person's immigration status. The commission shall, on an annual basis commencing on January 1, 2012, compile the arrangements and policies in a

1 [public report to be submitted to the general assembly.](#)

2 [\(e\) The commission shall also compile into a public report the policies and procedures](#)  
3 [adopted by police departments pursuant to section 31-21.2-5 of the general laws.](#)

4 SECTION 3. Section 42-137-5 of the General Laws in Chapter 42-137 entitled "The  
5 Select Commission on Race and Police-Community Relations Act" is hereby amended to read as  
6 follows:

7 **42-137-5. Duties.** -- The select commission shall:

8 (1) Analyze and recommend changes that will improve police-community relations in  
9 Rhode Island.

10 (2) Study and recommend changes needed to statutes, ordinances, institutional policies,  
11 procedures and practices deemed necessary to:

12 (i) Improve law enforcement work and accountability;

13 (ii) Reduce racism;

14 (iii) Enhance the administration of justice; and

15 (iv) Affect reconciliation between diverse segments of the statewide community.

16 (3) Study, recommend, promote and implement methods to achieve greater citizen  
17 participation in law enforcement policy development, review of law enforcement practices, and  
18 advocacy for the needs of law enforcement agencies, officers, and the public at large in the  
19 prevention of crime, administration of justice and public safety.

20 (4) Study, recommend, promote and assist in the incorporation of evolving homeland  
21 security needs with effective models of neighborhood-oriented community policing, crime  
22 prevention and public safety.

23 (5) Promote greater understanding of the need to incorporate cultural diversity in  
24 everyday as well as extraordinary activities involving law enforcement, public safety and the  
25 administration of justice.

26 (6) Analyze, review, recommend, assist in and monitor changes to police policies,  
27 procedures and practices related to:

28 (i) Recruitment, hiring, promotion and training of police officers;

29 (ii) The level and quality of diversity training, sensitivity awareness and cultural  
30 competency;

31 (iii) The level and quality of efforts related to building and improving overall community  
32 relations;

33 (iv) The use of firearms by on-duty and off-duty police officers;

34 (v) The use of force, the use of excessive force or the excessive use of force;

- 1 (vi) The use of racial profiling and other forms of bias based policing; and  
2 (vii) Legislation reforming police policies, practices, or procedures involving community  
3 relations.

4 ~~(7) To assist the select commission in its duties pursuant to subsection (6), all police~~  
5 ~~departments shall submit to the select commission on an annual basis beginning on January 15,~~  
6 ~~2004, and for six (6) years thereafter, a report indicating what action, if any, has been taken to~~  
7 ~~address any racial disparities in traffic stops and/or searches documented in the study authorized~~  
8 ~~by sections 31-21.1-4 and 31-21.2-6, and to otherwise implement any recommendations of that~~  
9 ~~study. The reports shall be public records.~~

10 ~~-(8) Collect and publish data regarding complaints of police misconduct pursuant to~~  
11 ~~section 31-21.2-8.~~

12 SECTION 4. This act shall take effect upon passage.

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LC00415/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO MOTOR AND OTHER VEHICLES - COMPREHENSIVE RACIAL  
PROFILING PREVENTION ACT OF 2010

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1           This act would amend the law banning racial profiling in traffic stops by state and  
2   municipal law enforcement agencies by imposing additional requirements upon law enforcement  
3   agencies to collect data and complete regular reports of findings and statistics regarding traffic  
4   stops.

5           This act would take effect upon passage.

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