

2014 -- S 2976 SUBSTITUTE A

LC005454/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

**RELATING TO MOTOR AND OTHER VEHICLES - COMPREHENSIVE COMMUNITY -
POLICE RELATIONSHIP ACT OF 2014**

Introduced By: Senators Metts, Pichardo, Goodwin, Jabour, and Miller

Date Introduced: May 01, 2014

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 31-21.2 of the General Laws entitled "Racial Profiling
2 Prevention Act of 2004" is hereby amended to read as follows:

~~CHAPTER 31-21.2~~

~~Racial Profiling Prevention Act of 2004~~

CHAPTER 31-21.2

COMPREHENSIVE COMMUNITY - POLICE RELATIONSHIP ACT OF 2014

3
4
5
6
7
8 SECTION 2. Sections 31-21.2-5, 31-21.2-6, 31-21.2-7 and 31-21.2-8 of the General
9 Laws in Chapter 31-21.2 entitled "Racial Profiling Prevention Act of 2004" are hereby amended
10 to read as follows:

11 **31-21.2-5. Law enforcement practices.** -- (a) Unless there exists reasonable suspicion or
12 probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be
13 detained beyond the time needed to address the violation. Nothing contained herein shall prohibit
14 the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or
15 subsequent criminal investigation, if there is reasonable suspicion or probable cause of criminal
16 activity.

17 (b) No operator or owner-passenger of a motor vehicle or pedestrian shall be requested
18 to consent to a search by a law enforcement officer of his or her motor vehicle or person ~~which is~~

1 ~~stopped solely for a traffic violation~~, unless there exists reasonable suspicion or probable cause of
2 criminal activity. Nothing contained in this subsection shall be construed to prohibit a law
3 enforcement officer from conducting a pat down search for weapons based upon a reasonable
4 belief that the officer's personal safety may be jeopardized.

5 (c) Each search conducted by a law enforcement officer shall be documented in a
6 computer-aided dispatch (CAD) entry or other police-generated report. The CAD entry or formal
7 police report shall include the date, time and location of the stop/search, along with the
8 "reasonable suspicion" or "probable cause" leading to the search. The CAD entry or formal police
9 report shall also include the results of the search. The document shall be a public record, subject
10 to the access to public records act, § 38-2-2(4)(D).

11 (d) With the exception of operators who are subject to federal motor carrier regulations,
12 no operator of a motor vehicle shall be requested to provide any documentation or identification
13 other than a driver's license, motor vehicle registration, and/or proof of insurance when the motor
14 vehicle has been stopped solely for a traffic violation, unless there exists reasonable suspicion or
15 probable cause of criminal activity or the operator has failed to produce a valid driver's license.

16 (e) If a violation of the traffic laws in this title is used to stop a motor vehicle for non-
17 related investigatory reasons, the law enforcement officer shall document in writing or
18 electronically the investigatory basis for the stop. The documentation of such stops shall
19 commence no later than twelve (12) months after passage of this act and shall be assessed every
20 six (6) months by the respective police department as to whether the suspicion was justified and
21 the data be made publicly available, subject to the access to public records act, § 38-2-2(4)(D).

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

25 ~~(g)~~ Law enforcement agencies using video and/or audio surveillance cameras in their
26 vehicles shall adopt written policies and procedures regarding the use of such cameras, which
27 shall be public records, and which shall include, but not be limited to, the following standards:

28 (1) All motor vehicle stops conducted by police vehicles with such equipment shall be
29 recorded barring exceptions outlined below. In an effort to objectively memorialize relevant
30 observations, the recording shall begin no later than when an officer first signals the vehicle to
31 stop; and, barring conditions that could compromise a sensitive investigation, jeopardize the
32 safety of a vehicle occupant or cooperating victim/witness and/or unforeseen equipment
33 malfunction, the recording shall continue until the motor vehicle stop is completed and the
34 stopped vehicle departs, or until the officer's participation in the motor vehicle stop ends;

1 (2) Law enforcement agencies that acquire video and/or audio surveillance cameras for
2 use in their vehicles shall:

3 (i) Notify the office of highway safety of the Rhode Island department of transportation
4 that such equipment has been acquired and will be in use and the department of transportation
5 shall post notice of such use on its website;

6 (ii) Issue a press release advising the public that such equipment will be in use; and

7 (iii) Post notice on their website that such equipment will be in use;

8 (3) A chain-of-custody of the video/audio recordings, hereafter referred to as
9 "recording(s)", shall be maintained;

10 (4)(i) A driver of a motor vehicle that was recorded by a video/audio surveillance camera,
11 and/or his or her legal counsel, shall have the right to view the in-car recording at the police
12 station, provided that the viewing does not compromise an active investigation;

13 (ii) A passenger of a motor vehicle that was recorded by a video/audio surveillance
14 camera, and/or his or her legal counsel, shall have the right to view the in-car recording at the
15 police station if that passenger became the subject of the police interaction recorded, provided
16 that the viewing does not compromise an active investigation;

17 (5) The policy shall address the period of retention for such recordings, and procedures to
18 be used to ensure that the recording equipment is in proper working order, and shall bar the
19 destruction of any recording of an incident that is the subject of a pending complaint, misconduct
20 investigation or civil or criminal proceeding. Such recordings shall be retained for a minimum of
21 ten (10) days after the final resolution of such investigation or proceeding, including the time for
22 any appeal;

23 (6) The policy shall explicitly prohibit any violation of these requirements, including any
24 attempts to disengage or tamper with the video/audio surveillance equipment, deliberately and
25 prematurely erase or alter a recording, or to otherwise fail to record stops as specified herein
26 barring the aforementioned limited exceptions; and

27 (7) The video/audio surveillance recordings regulated by this section shall not be deemed
28 public records under the access to public records act, § 38-2-1, et seq. A court may impose any
29 appropriate remedy in any civil or criminal proceeding where a knowing and willful violation of
30 these standards is found to have been committed.

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

33 (i) Law enforcement agencies with mobile display terminals in police vehicles shall adopt
34 policies and procedures governing their use, which shall include the criteria necessary to initiate a

1 [record check on a motor vehicle license or registrant. All law enforcement agencies must comply](#)
2 [with state and federal guidelines related to the use and access of Rhode Island Law Enforcement](#)
3 [Telecommunications System \(RILETS\) and National Crime and Information Center \(NCIC\).](#)

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

7 **31-21.2-6. Continued data collection.** -- (a) The [office of highway safety of the](#) Rhode
8 Island ~~Justice Commission~~ [department of transportation or a designee to be chosen by the](#)
9 [department of transportation by January 1, 2016](#), is authorized to and shall conduct a study of
10 routine traffic stops by the Rhode Island State Police and each municipal police department in
11 order to determine whether racial [disparities in traffic stops exist](#) ~~profiling is occurring~~, and to
12 examine whether searches of vehicles and motorists are being conducted in a disparate manner.

13 (b) The [office of highway safety of the](#) Rhode Island ~~Justice Commission~~ [department of](#)
14 [transportation or its designee](#) shall, ~~not later than forty five (45) days after enactment of this act~~
15 [no later than January 1, 2015](#), develop a form [or electronic equivalent](#) to be used by each police
16 officer when making a traffic stop to record the data required under this chapter, which form shall
17 include [for each motor vehicle stop, the race and ethnicity of the driver based on the officer's](#)
18 [perception, and](#) the information listed in section 31-21.1-4.

19 (c) The [office of highway safety of the](#) Rhode Island ~~Justice Commission~~ [department of](#)
20 [transportation or its designee](#) shall advise the Rhode Island State Police and each municipal police
21 department of the date that data collection shall commence. Data collection shall begin not later
22 than ~~October 1, 2004~~ [January 1, 2015](#), but may begin prior to that time upon notification to police
23 departments from the [office of highway safety of the](#) Rhode Island ~~Justice Commission~~
24 [department of transportation or its designee](#).

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

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

34 (f) Appropriate funding ~~shall~~ [may](#) be made available to implement the provision of this

1 chapter, and completion of this study shall be contingent upon such funding.

2 (g) The study shall include a multivariate analysis of the collected data in accordance
3 with general statistical standards, and shall be substantially similar to the study prepared pursuant
4 to chapter 21.1 of this title. The study shall be prepared by an organization, company, person or
5 other entity with sufficient expertise in the field of statistics and the study of traffic stop data
6 collection to assist with the implementation of this chapter, and chosen by the office of highway
7 safety of the Rhode Island ~~Justice-Commission~~ department of transportation or its designee. The
8 study shall be released on an annual basis, with the first released not later than eighteen (18)
9 months after commencement of data collection under this chapter. The report, findings and
10 conclusions submitted pursuant to this subsection shall be a public record.

11 (h) The office of highway safety of the Rhode Island ~~Justice-Commission~~ department of
12 transportation or its designee shall be exempt from the provisions of chapter 2 of title 37 in
13 connection with its procurement of equipment and services necessary to the implementation of
14 this chapter.

15 (i) On a quarterly basis a summary report of the monthly data provided by each police
16 department and the state police for that quarterly period shall be issued. The report shall be a
17 public record. The summary report shall include at a minimum a monthly breakdown by race,
18 age, gender and outcome for operators for each police department of the number of traffic stops
19 made and of searches conducted, ~~and any other information deemed appropriate by the Rhode~~
20 ~~Island Justice-Commission.~~ For those police departments collecting data through the use of
21 mobile display terminals in police vehicles, the report shall also include a breakdown by race and
22 outcome for operators. The report shall be released not more than ninety (90) days after the end of
23 each quarterly period. No information revealing the identity of any individual shall be contained
24 in the report.

25 (j) Every law enforcement agency collecting data pursuant to this chapter shall ensure
26 that supervisory personnel review each officer's stop and search documentation and data results
27 on a ~~weekly~~ monthly basis to ensure compliance with all policies, prohibitions and documentation
28 requirements.

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

33 (l) An organization chartered for the purpose of combating discrimination, racism, or of
34 safeguarding civil liberties, or of promoting full, free, or equal employment opportunities, ~~and/or~~

1 ~~the Rhode Island Justice Commission~~ may seek appropriate relief in a civil action against any
2 police department for failing to collect or transmit the data required in this chapter, and may be
3 awarded its costs, including attorneys' fees, for bringing such an action. As a condition precedent
4 to the filing of a civil action by an organization under this section, the organization shall send a
5 notice to the office of highway safety of the Rhode Island Justice Commission department of
6 transportation or its designee identifying the police department which is failing to collect or
7 transmit the data and the organization shall then allow fifteen (15) days to elapse.

8 (m) The office of highway safety of the Rhode Island Justice Commission department of
9 transportation or its designee shall consult with community, police and civil rights
10 representatives, ~~as the executive director deems appropriate,~~ in the development of the form
11 required by subsection (b) and on at least a quarterly basis shall consult on other issues that arise
12 relating to the implementation and enforcement of this chapter including the information
13 generated by the issuance of the reports required by subsection (i) herein.

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

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

29 (c) All police departments shall submit to the office of highway safety on an annual basis
30 beginning on July 15, 2015, and for four (4) years following the conclusion of data collection, a
31 report indicating what action, if any, has been taken, to address any racial disparities in traffic
32 stops and/or searches documented in the studies authorized by §§ 31-21.1-4 and 31-21.2-6, and to
33 otherwise implement any recommendations of those studies, including, but not limited to, any
34 changes to agency policies; revisions to traffic enforcement practices; detailed analysis and

1 review of traffic stop data and the results of such review; or the initiation of any disciplinary
2 action. Any reference to disciplinary action shall not identify the officer. The office of highway
3 safety or its designee shall issue guidelines for police departments to follow in preparing these
4 reports. The reports shall be public records, and shall contain a certification that the department
5 has complied with subsections (j) and (k) of § 31-21.2-6.

6 (d) Every twelve (12) months, each state and municipal law enforcement agency shall
7 submit to the office of highway safety of the Rhode Island department of transportation or its
8 designee, on a brief form prepared by that office, information summarizing what, if any, actions
9 were taken by the agency in response to any racial disparities documented in the previous reports
10 issued pursuant to § 31-21.2-6(i). The summary shall include, but not be limited to: any changes
11 to agency policies; revisions to traffic enforcement practices; detailed analysis and review of
12 traffic stop data, and the results of such review; or the initiation of any disciplinary action. Any
13 references to disciplinary action shall not identify the officer. The forms shall be public records,
14 and shall contain a certification that the department has complied with subsections (j) and (k) of §
15 31-21.2-6.

16 **31-21.2-8. Complaint procedures.** -- (a) Each state and municipal law enforcement
17 agency shall establish a procedure to investigate complaints of police misconduct by members of
18 the public against personnel of these agencies, and shall make a written description of the
19 procedure available to the public. Copies of any departmental complaint forms shall be available
20 in at least one governmental location other than the police department. The procedure and forms
21 shall also be made available on any website of a law enforcement agency.

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

23 (c) Information on the complaints received by each law enforcement agency shall be
24 ~~submitted~~ compiled on an annual basis ~~under uniform criteria established by the Select~~
25 ~~Commission on Race and Police Community Relations~~ by the state police and each municipal
26 law enforcement agency and published in each agency's annual report and/or on its website. The
27 information ~~provided~~ compiled by each department shall include the total number of complaints
28 received from the public, a breakdown by category of the type of complaint and a further
29 breakdown by category of the disposition of the complaints.

30 (d) The state police and all municipal law enforcement agencies shall make available as a
31 public record subject to the access to public records act, § 38-2-2(4)(D):

32 (1) Copies of any formal or informal arrangements between the state police or a
33 municipal law enforcement agency and the bureau of immigration and customs
34 enforcement/homeland security investigations concerning the questioning, detention,

1 investigation, arrest, apprehension, stopping, referral or processing of individuals within the state
2 of Rhode Island, including copies of any agreements entered into pursuant to 8 U.S.C. 1357(g):
3 and

4 (2) Any policies or procedures governing the circumstances under which an inquiry to
5 federal authorities is made to determine a person's immigration status.

6 SECTION 3. Chapter 14-1 of the General Laws entitled "Proceedings in Family Court" is
7 hereby amended by adding thereto the following section:

8 **14-1-25.1. Search of juveniles without warrant.** – No juvenile shall be requested to
9 consent to a search by a law enforcement officer unless there exists reasonable suspicion or
10 probable cause of criminal activity. In those instances in which a warrant would be required, a
11 law enforcement officer must advise the juvenile that he or she may refuse to consent to, or limit
12 the scope of, any requested search. The determination of age of the individual shall be based on
13 the perception of the officer making a good faith effort in advance of requesting consent. Nothing
14 contained herein shall be construed to limit the restrictions contained in § 31-21.2-5, or to
15 prohibit a law enforcement officer from conducting a pat down search for weapons based upon a
16 reasonable belief that the officer's personal safety may be jeopardized.

17 SECTION 5. This act shall take effect on January 1, 2015.

=====
LC005454/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES - COMPREHENSIVE COMMUNITY -
POLICE RELATIONSHIP ACT OF 2014

1 This act would have all police departments submit to the office of highway safety or its
2 designee an annual report indicating what action has been taken to address any racial disparities
3 in traffic stops and/or searches. This would begin on July 15, 2015 and for four (4) years
4 following the commencement of data collection.

5 This act would take effect on January 1, 2015.

=====
LC005454/SUB A
=====