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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- COMPREHENSIVE COMMUNITY-
POLICE RELATIONSHIP ACT OF 2015

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

Date Introduced: March 11, 2015

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:

3 ~~CHAPTER 31-21.2~~

4 ~~Racial Profiling Prevention Act of 2004~~

5 CHAPTER 31-21.2

6 COMPREHENSIVE COMMUNITY-POLICE RELATIONSHIP ACT OF 2015

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

10 **31-21.2-5. Law enforcement practices.** -- (a) Unless there exists reasonable suspicion or
11 probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be
12 detained beyond the time needed to address the violation. Nothing contained herein shall prohibit
13 the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or
14 subsequent criminal investigation, if there is reasonable suspicion or probable cause of criminal
15 activity.

16 (b) No operator or owner-passenger of a motor vehicle shall be requested to consent to a
17 search by a law enforcement officer of his or her motor vehicle which is stopped solely for a
18 traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity.

1 No pedestrian shall be requested to consent to a search by a law enforcement officer of his or her
2 person, unless there exists reasonable suspicion or probable cause of criminal activity. Nothing
3 contained in this subsection shall be construed to prohibit a law enforcement officer from
4 conducting a pat down search for weapons based upon a reasonable belief that the officer's
5 personal safety may be jeopardized.

6 (c) Each search conducted by a law enforcement officer which does not result in criminal
7 charges shall be documented in a computer-aided dispatch (CAD) entry or other police-generated
8 report. Each search conducted by a law enforcement officer which results in criminal charges
9 shall be documented in a police-generated report. The CAD entry or formal police report shall
10 include the date, time and location of the stop/search, along with the "reasonable suspicion" or
11 "probable cause" leading to the search. The CAD entry or formal police report shall also include
12 the results of the search. The document, exclusive of information identifying the law enforcement
13 officer, shall be a public record, subject to the access to public records act, § 38-2-2(4)(D), law
14 enforcement exemptions. For purposes of this section, "computer-aided dispatch" (CAD) means
15 an electronic system used by public safety agencies to facilitate incident response and
16 communications in the field, and which electronically records information on call taking,
17 dispatching, location verification, mapping and other functions for public safety.

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

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

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

33 ~~(d)~~(g) Law enforcement agencies using video and/or audio surveillance cameras in their
34 vehicles shall adopt written policies and procedures regarding the use of such cameras, which

1 shall be public records- , and which shall include, but not be limited to, the following standards:

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

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

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

14 (ii) Issue a press release advising the public that such equipment will be in use; and
15 (iii) post notice on their website that such equipment will be in use;

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

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

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

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

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

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

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

7 (i) Law enforcement agencies with mobile display terminals in police vehicles shall adopt
8 policies and procedures governing their use, which shall include the criteria necessary to initiate a
9 record check on a motor vehicle license or registrant. All law enforcement agencies must comply
10 with state and federal guidelines related to the use and access of Rhode Island law enforcement
11 telecommunication system (RILETS) and National Criminal Identification Center (NCIC).

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

15 **31-21.2-6. Continued data collection.** -- (a) The office of highway safety of the Rhode
16 Island ~~Justice-Commission~~ department of transportation or a designee to be chosen by the
17 department of transportation by January 1, 2017, is authorized to and shall conduct a study of
18 routine traffic stops by the Rhode Island State Police and each municipal police department in
19 order to determine whether racial ~~profiling is occurring~~ disparities in traffic stops exist, and to
20 examine whether searches of vehicles and motorists are being conducted in a disparate manner.

21 (b) The office of highway safety of the Rhode Island ~~Justice-Commission~~ department of
22 transportation or its designee shall, ~~not later than forty-five (45) days after enactment of this act,~~
23 no later than January 1, 2016, develop a form or electronic equivalent to be used by each police
24 officer when making a traffic stop to record the data required under this chapter, which form shall
25 include for each motor vehicle stop, the race and ethnicity of the driver based on the officer's
26 perception, and the information listed in § 31-21.1-4.

27 (c) The office of highway safety of the Rhode Island ~~Justice-Commission~~ department of
28 transportation or its designee shall advise the Rhode Island State Police and each municipal police
29 department of the date that data collection shall commence. Data collection shall begin not later
30 than ~~October 1, 2004~~ January 1, 2016, but may begin prior to that time upon notification to police
31 departments from the office of highway safety of the Rhode Island ~~Justice-Commission~~
32 department of transportation or its designee.

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

1 the term of this study.

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

8 (f) Appropriate funding ~~shall~~ [may](#) be made available to implement the provision of this
9 chapter, and completion of this study shall be contingent upon such funding.

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

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

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

33 (j) Every law enforcement agency collecting data pursuant to this chapter shall ensure
34 that supervisory personnel review each officer's stop and search documentation and data results

1 on a ~~weekly~~ monthly basis to ensure compliance with all policies, prohibitions and documentation
2 requirements.

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

7 (l) An organization chartered for the purpose of combating discrimination, racism, or of
8 safeguarding civil liberties, or of promoting full, free, or equal employment opportunities, ~~and/or~~
9 ~~the Rhode Island Justice Commission~~ and/or a governmental or quasi-governmental entity may
10 seek appropriate relief in a civil action against any police department for failing to collect or
11 transmit the data required in this chapter, and may be awarded its costs, including attorneys' fees,
12 for bringing such an action. As a condition precedent to the filing of a civil action by an
13 organization under this section, the organization shall send a notice to the office of highway
14 safety of the Rhode Island ~~Justice Commission~~ department of transportation or its designee
15 identifying the police department which is failing to collect or transmit the data and the
16 organization shall then allow fifteen (15) days to elapse.

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

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

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

4 (c) All police departments shall submit to the office of highway safety of the department
5 of transportation or its designee on an annual basis beginning on July 15, 2016, and for four (4)
6 years following the conclusion of data collection, a report indicating what action, if any, has been
7 taken, to address any racial disparities in traffic stops and/or searches documented in the studies
8 authorized by §§ 31-21.1-4 and 31-21.2-6, and to otherwise implement any recommendations of
9 those studies, including, but not limited to, any changes to agency policies; revisions to traffic
10 enforcement practices; detailed analysis and review of traffic stop data and the results of such
11 review; or the initiation of any disciplinary action. Any reference to disciplinary action shall not
12 identify the officer. The office of highway safety of the department of transportation or its
13 designee shall issue guidelines for police departments to follow in preparing these reports. The
14 reports shall be public records, and shall contain a certification that the department has complied
15 with subsections (j) and (k) of § 31-21.2-6.

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

26 **31-21.2-8. Complaint procedures.** -- (a) Each state and municipal law enforcement
27 agency shall establish a procedure to investigate complaints of police misconduct by members of
28 the public against personnel of these agencies, and shall make a written description of the
29 procedure available to the public. Copies of any departmental complaint forms shall be available
30 in at least one governmental location other than the police department. The procedure and forms
31 shall also be made available on any website of a law enforcement agency.

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

33 (c) Information on the complaints received by each law enforcement agency shall be
34 ~~submitted~~ compiled on an annual basis ~~under uniform criteria established by the Select~~

1 ~~Commission on Race and Police Community Relations~~ by the state police and each municipal
2 law enforcement agency and published in each agency's annual report and/or on its website. The
3 information ~~provided~~ compiled by each department shall include the total number of complaints
4 received from the public, a breakdown by category of the type of complaint and a further
5 breakdown by category of the disposition of the complaints.

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

9 (1) Copies of any formal or informal arrangements between the state police or a
10 municipal law enforcement agency and the bureau of immigration and customs
11 enforcement/homeland security investigations concerning the questioning, detention,
12 investigation, arrest, apprehension, stopping, referral or processing of individuals within the state
13 of Rhode Island, including copies of any agreements entered into pursuant to 8 U.S.C. § 1357(g);
14 and

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

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

19 **14-1-25.1. Search of juveniles without warrant. -- No juvenile shall be requested to**
20 **consent to a search by a law enforcement officer unless there exists reasonable suspicion or**
21 **probable cause of criminal activity. In those instances in which a warrant would be required, a**
22 **law enforcement officer must advise the juvenile that he or she may refuse to consent to, or limit**
23 **the scope of, any requested search. The determination of age of the individual shall be based on**
24 **the perception of the officer making a good faith effort in advance of requesting consent. Nothing**
25 **contained herein shall be construed to limit the restrictions contained in § 31-21.2-5, or to**
26 **prohibit a law enforcement officer from conducting a pat down search for weapons based upon a**
27 **reasonable belief that the officer's personal safety may be jeopardized.**

28 SECTION 4. This act shall take effect on January 1, 2016.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO MOTOR AND OTHER VEHICLES -- COMPREHENSIVE COMMUNITY-
POLICE RELATIONSHIP ACT OF 2015

1 This act would rename the Racial Profiling Act to the Comprehensive Community Police
2 Relationship Act and would repeal those provisions prohibiting law enforcement from requesting
3 consent to search of pedestrians; would require each search whether resulting in arrest or not, to
4 be documented in a computer-aided dispatch (CAD); would enact guidelines and regulations
5 relative to any motor vehicle stop that is recorded including the initiation, maintenance and
6 availability of the recording for use by the person or his/her attorney. It would also require the
7 continued collection of data and the completion of reports to determine whether there are
8 disparities in traffic stops with race as a factor. Further, this act would require to police
9 departments to report disparities and to implement recommendations to address those disparities
10 or impermissible profiling. It would also amend the complaint procedure and would prohibit
11 police from requesting consent to search from juveniles unless there is reasonable suspicion or
12 probable cause to do so.

13 This act would take effect on January 1, 2016.

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