

FIRST REGULAR SESSION

HOUSE BILL NO. 1214

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CURTMAN.

1946H.04I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 590.650, RSMo, and to enact in lieu thereof one new section relating to prohibitions against unlawful policing.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 590.650, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 590.650, to read as follows:

590.650. 1. **The provisions of this section shall be known and may be cited as "The Fourth Amendment Affirmation Act"**. As used in this section, ~~["minority group" means individuals of African, Hispanic, Native American or Asian descent]~~ **the following terms mean:**

(1) **"Consent search", a search authorized by the consent of the individual, not by probable cause;**

(2) **"Investigative stop", a law enforcement activity in which an individual is briefly detained based upon reasonable suspicion accompanied by articulable facts about the individual indicating the possibility of criminal behavior. Investigative stops include:**

(a) **Agency initiated investigations;**

(b) **Officer initiated investigations, including pretext stops;**

(c) **Responses to calls for service;**

(d) **Responses to license plate readers or scans;**

(3) **"Law enforcement activity", certain activities conducted by a peace officer including:**

(a) **Stops; actions taken in the course of making a traffic or pedestrian stop;**

(b) **Post-stop activities; actions officers take after making a stop;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(c) Searches; searches based on probable cause or consent, including aspects of the**
18 **search; and**

19 **(d) Arrests; detentions for which arrest charges are filed;**

20 **(4) "Minority group", individuals of African, Hispanic, Native American, or Asian**
21 **descent;**

22 **(5) "Pedestrian stop", an encounter between a peace officer and a civilian that**
23 **involves an investigatory detention based on a reasonable suspicion of wrongdoing;**

24 **(6) "Unlawful policing", occurs in circumstances in which the peace officer's**
25 **actions are based on the real or perceived race, ethnicity, religious beliefs, gender, English**
26 **language proficiency, status as a person with a disability, or national origin of a person**
27 **rather than upon lawful and appropriate law enforcement procedures based on observed**
28 **behavior or facts about the individual indicating criminal activity. Unlawful policing does**
29 **not include investigations of alleged crimes when law enforcement must seek out suspects**
30 **who match a specifically delineated description.**

31 2. Each time a peace officer stops a driver of a motor vehicle, that officer shall report the
32 following information to the law enforcement agency that employs the officer:

33 (1) The age, gender and race or minority group of the individual stopped;

34 (2) The reasons for the stop;

35 (3) Whether a search was conducted as a result of the stop;

36 (4) If a search was conducted, whether the individual consented to the search, the
37 probable cause for the search, whether the person was searched, whether the person's property
38 was searched, and the duration of the search;

39 (5) Whether any contraband was discovered in the course of the search and the type of
40 any contraband discovered;

41 (6) Whether any warning or citation was issued as a result of the stop;

42 (7) If a warning or citation was issued, the violation charged or warning provided;

43 (8) Whether an arrest was made as a result of either the stop or the search;

44 (9) If an arrest was made, the crime charged; and

45 (10) The location of the stop.

46 Such information may be reported using a format determined by the department of public safety
47 which uses existing citation and report forms.

48 3. (1) Each law enforcement agency shall compile the data described in subsection 2 of
49 this section for the calendar year into a report to the attorney general.

50 (2) Each law enforcement agency shall submit the report to the attorney general no later
51 than March first of the following calendar year.

52 (3) The attorney general shall determine the format that all law enforcement agencies
53 shall use to submit the report.

54 4. (1) The attorney general shall analyze the annual reports of law enforcement agencies
55 required by this section and submit a report of the findings to the governor, the general assembly
56 and each law enforcement agency no later than June first of each year.

57 (2) The report of the attorney general shall include at least the following information for
58 each agency:

59 (a) The total number of vehicles stopped by peace officers during the previous calendar
60 year;

61 (b) The number and percentage of stopped motor vehicles that were driven by members
62 of each particular minority group;

63 (c) A comparison of the percentage of stopped motor vehicles driven by each minority
64 group and the percentage of the state's population that each minority group comprises; ~~and~~

65 (d) **An explanation of what disproportions were identified, how such disproportions
66 could be accounted for by alternative legitimate factors; and**

67 (e) A compilation of the information reported by law enforcement agencies pursuant to
68 subsection 2 of this section.

69 5. Each law enforcement agency shall adopt a policy on ~~[race-based traffic stops]~~
70 **unlawful policing** that:

71 (1) Prohibits the practice of routinely stopping members of minority groups for
72 violations of vehicle laws as a pretext for investigating other violations of criminal law;

73 (2) Provides for periodic reviews by the law enforcement agency of the annual report of
74 the attorney general required by subsection 4 of this section that:

75 (a) Determine whether any peace officers of the law enforcement agency ~~[have a pattern
76 of stopping members of minority groups for violations of vehicle laws]~~ **stop members of
77 minority groups** in a number disproportionate to ~~[the population of minority groups residing
78 or traveling within the jurisdiction of the law enforcement agency]~~ **a benchmark estimating the
79 group's percentage in the jurisdiction;** and

80 (b) If the review reveals a pattern, require an investigation to determine whether any
81 peace officers of the law enforcement agency routinely stop members of minority groups for
82 violations of vehicle laws as a pretext for investigating other violations of criminal law; and

83 (3) Provides for appropriate counseling and training of any peace officer found to have
84 engaged in race-based traffic stops within ninety days of the review.

85 The course or courses of instruction and the guidelines shall stress understanding and respect for
86 racial and cultural differences, and development of effective, noncombative methods of carrying
87 out law enforcement duties in a racially and culturally diverse environment.

88 6. If a law enforcement agency fails to comply with the provisions of this section, the
89 governor may withhold any state funds appropriated to the noncompliant law enforcement
90 agency.

91 7. Each law enforcement agency in this state may utilize federal funds from
92 community-oriented policing services grants or any other federal sources to equip each vehicle
93 used for traffic stops with a video camera and voice-activated microphone.

94 8. A peace officer who stops a driver of a motor vehicle pursuant to a lawfully conducted
95 sobriety check point or road block shall be exempt from the reporting requirements of subsection
96 2 of this section.

97 **9. Every member of a law enforcement agency within the state of Missouri,**
98 **including any civilian employee or party contracted by the law enforcement agency, is**
99 **prohibited from engaging in unlawful policing.**

100 **10. Each law enforcement agency shall promulgate internal policies to control**
101 **unlawful policing, including:**

102 **(1) A stated prohibition of unlawful policing consistent with the definitions of**
103 **unlawful policing under subsection 1 of this section;**

104 **(2) Submitting such policy to the attorney general for verification as to its**
105 **adequacy. The agencies shall notify the attorney general when changes are made to the**
106 **policy so that the attorney general can update verification;**

107 **(3) Provisions for training on unlawful policing;**

108 **(4) Provisions requiring for all investigative stops documentation of specific and**
109 **articulable facts about the individual that taken together with rational inferences from**
110 **those facts lead the peace officer to reasonably believe the individual is involved in criminal**
111 **activity;**

112 **(5) Procedures aimed at decreasing unlawful policing in the administration of**
113 **consent searches, which shall include the following provisions:**

114 **(a) A peace officer shall have specific and articulable facts about the individual**
115 **that, taken together with rational inferences from those facts, lead the peace officer to**
116 **reasonably believe the individual is involved in criminal activity;**

117 **(b) The peace officer shall document in writing such specific articulable facts about**
118 **the circumstances leading to the consent of individual searches or a single documentation**
119 **leading to the consent of multiple searches if multiple searches take place under the same**
120 **circumstances at or near the same time;**

121 **(c) Prior to conducting a consent search of a person or the person's effects, a peace**
122 **officer shall communicate in spoken or written form in a language that the person being**
123 **questioned clearly understands that voluntary consent authorizes the search, that the**

124 authority of the search cannot be challenged in court if consent is given, that the person is
125 being asked to voluntarily consent to a search, and that the person has the right to refuse
126 the request to search;

127 (d) After providing such advisement, a peace officer shall request, in plain
128 language, that the person subject to the search provide voluntary written, audio, or video
129 consent to the search;

130 (e) The peace officer shall document whether the person subject to search provides
131 written, video, or audio consent;

132 (f) The peace officer may refrain from asking for consent when probable cause has
133 been observed;

134 (g) Any evidence obtained as a result of a search prohibited by this section shall be
135 inadmissible in any judicial proceeding; and

136 (h) Nothing contained in this subsection shall be construed to preclude any search
137 otherwise based upon any legally sufficient cause;

138 (6) Procedures for requesting personal information from drivers or from
139 pedestrians during a pedestrian stop, including:

140 (a) When the motor vehicle has been stopped solely for a traffic violation, a peace
141 officer shall only request the following documentation from drivers of motor vehicles: a
142 driver's license or other verifiable, government-issued identification, including foreign-
143 issued identification; motor vehicle registration; and proof of insurance, unless there exists
144 reasonable suspicion or probable cause of criminal activity;

145 (b) No passenger of a motor vehicle shall be requested to provide identification or
146 any other documentation by a peace officer when the motor vehicle has been stopped solely
147 for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal
148 activity; and

149 (c) When not engaged in a pedestrian stop or a stop motivated by probable cause
150 or reasonable suspicion, the police officer shall remain mindful and respectful of the
151 citizen's Fourth and Fifth Amendment rights; and

152 (7) Procedures for recording the perceived language proficiency and disabilities,
153 if any, of individuals stopped.

154 11. If any provision of this section or its application to any person or circumstance
155 is held invalid, such determination shall not affect the provisions or applications of this
156 section which may be given effect without the invalid provision or application, and to that
157 end the provisions of this section are severable.

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