

CHAPTER 260

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 01-1114

BY REPRESENTATIVE(S) Groff, Alexander, Borodkin, Boyd, Cloer, Coleman, Crane, Daniel, Dean, Decker, Fairbank, Fritz, Garcia, Grossman, Hodge, Hoppe, Jahn, Jameson, Johnson, Larson, Lee, Mace, Madden, Miller, Mitchell, Paschall, Plant, Ragsdale, Rippy, Romanoff, Saliman, Sanchez, Scott, Snook, Spence, Spradley, Stafford, Tapia, Tochtrop, Veiga, Vigil, Weddig, White, and Williams S.;
also SENATOR(S) Tate, Fitz-Gerald, Gordon, Hagedorn, Hanna, Hernandez, Linkhart, Pascoe, Phillips, Thiebaut, and Tupa.

AN ACT

CONCERNING PROFILING IN CONNECTION WITH LAW ENFORCEMENT TRAFFIC STOPS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-115. Information on traffic law enforcement - collection - profiling - annual report - repeal. (1) THE COLORADO STATE PATROL AND ANY LAW ENFORCEMENT AGENCY PERFORMING TRAFFIC STOPS THAT SERVES THE CITY AND COUNTY OF DENVER SHALL COLLECT AND MAINTAIN THE FOLLOWING INFORMATION REGARDING EACH TRAFFIC STOP:

- (a) THE NUMBER OF PERSONS DETAINED FOR ROUTINE TRAFFIC INFRACTIONS AND WHETHER A CITATION OR WARNING WAS ISSUED AS A RESULT OF THE TRAFFIC STOP;
- (b) IDENTIFYING CHARACTERISTICS OF THE PERSONS DETAINED DURING THE TRAFFIC STOP, INCLUDING RACE OR ETHNICITY, AGE, AND GENDER;
- (c) THE APPROXIMATE DATE, TIME, AND LOCATION OF THE TRAFFIC STOP;
- (d) THE REASON FOR THE TRAFFIC STOP;
- (e) WHETHER A SEARCH OF THE PERSON OCCURRED AS A RESULT OF THE TRAFFIC STOP;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(f) WHETHER, AS A RESULT OF THE TRAFFIC STOP, THE PERSON'S VEHICLE OR PERSONAL EFFECTS OR THE VEHICLE'S DRIVER OR PASSENGERS WERE SEARCHED AND THE RACE OR ETHNICITY, AGE, AND GENDER OF ANY PERSON SEARCHED;

(g) WHETHER THE SEARCH WAS CONDUCTED PURSUANT TO CONSENT, PROBABLE CAUSE, OR REASONABLE SUSPICION TO SUSPECT A CRIME;

(h) WHETHER ANY CONTRABAND WAS FOUND AS A RESULT OF THE TRAFFIC STOP;

(i) WHETHER AN ARREST WAS MADE AS A RESULT OF THE TRAFFIC STOP; AND

(j) WHETHER ANY PROPERTY WAS SEIZED AS A RESULT OF THE TRAFFIC STOP.

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE COLLECTION AND MAINTENANCE OF INFORMATION IN CONNECTION WITH ROADBLOCKS, VEHICLE CHECKS, OR CHECKPOINTS, EXCEPT WHEN SUCH TRAFFIC STOPS RESULT IN A WARNING, SEARCH, SEIZURE, OR ARREST.

(3) BEGINNING JANUARY 1, 2002, AND CONTINUING THROUGH JANUARY 1, 2004, THE COLORADO STATE PATROL AND ANY LAW ENFORCEMENT AGENCY PERFORMING TRAFFIC STOPS THAT SERVES THE CITY AND COUNTY OF DENVER SHALL ANNUALLY COMPILE THE INFORMATION GATHERED PURSUANT TO SUBSECTION (1) OF THIS SECTION AND SHALL MAKE SUCH INFORMATION AVAILABLE TO THE PUBLIC.

(4) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2004.

SECTION 2. Part 3 of article 31 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-31-309. Profiling - officer identification - training. (1) (a) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT PROFILING IS A PRACTICE THAT PRESENTS A GREAT DANGER TO THE FUNDAMENTAL PRINCIPLES OF OUR CONSTITUTIONAL REPUBLIC AND IS ABHORRENT AND CANNOT BE TOLERATED.

(b) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT MOTORISTS WHO HAVE BEEN STOPPED BY PEACE OFFICERS FOR NO REASON OTHER THAN THE COLOR OF THEIR SKIN OR THEIR APPARENT RACE, ETHNICITY, AGE, OR GENDER ARE THE VICTIMS OF DISCRIMINATORY PRACTICES.

(c) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT COLORADO PEACE OFFICERS RISK THEIR LIVES EVERY DAY. THE PEOPLE OF COLORADO GREATLY APPRECIATE THE HARD WORK AND DEDICATION OF PEACE OFFICERS IN PROTECTING PUBLIC SAFETY. THE GOOD NAME OF THESE PEACE OFFICERS SHOULD NOT BE TARNISHED BY THE ACTIONS OF THOSE WHO COMMIT DISCRIMINATORY PRACTICES.

(d) IT IS THEREFORE THE INTENT OF THE GENERAL ASSEMBLY IN ADOPTING THIS SECTION TO PROVIDE A MEANS OF IDENTIFICATION OF PEACE OFFICERS WHO ARE ENGAGING IN PROFILING, TO UNDERSCORE THE ACCOUNTABILITY OF THOSE PEACE OFFICERS FOR THEIR ACTIONS, AND TO PROVIDE TRAINING TO THOSE PEACE OFFICERS ON HOW TO AVOID PROFILING.

(2) FOR PURPOSES OF THIS SECTION, "PROFILING" MEANS THE PRACTICE OF DETAINING A SUSPECT BASED ON RACE, ETHNICITY, AGE, OR GENDER WITHOUT THE EXISTENCE OF ANY INDIVIDUALIZED SUSPICION OF THE PARTICULAR PERSON BEING STOPPED.

(3) ANY PEACE OFFICER CERTIFIED PURSUANT TO THIS PART 3 SHALL NOT ENGAGE IN PROFILING.

(4) (a) A PEACE OFFICER CERTIFIED PURSUANT TO THIS PART 3 SHALL PROVIDE, WITHOUT BEING ASKED, HIS OR HER BUSINESS CARD TO ANY PERSON WHOM THE PEACE OFFICER HAS DETAINED IN A TRAFFIC STOP, BUT HAS NOT CITED OR ARRESTED. THE BUSINESS CARD SHALL INCLUDE IDENTIFYING INFORMATION ABOUT THE PEACE OFFICER INCLUDING, BUT NOT LIMITED TO, THE PEACE OFFICER'S NAME, DIVISION, PRECINCT, AND BADGE OR OTHER IDENTIFICATION NUMBER AND A TELEPHONE NUMBER THAT MAY BE USED, IF NECESSARY, TO REPORT ANY COMMENTS, POSITIVE OR NEGATIVE, REGARDING THE TRAFFIC STOP. THE IDENTITY OF THE REPORTING PERSON AND THE REPORT OF ANY SUCH COMMENTS THAT CONSTITUTES A COMPLAINT SHALL INITIALLY BE KEPT CONFIDENTIAL BY THE RECEIVING LAW ENFORCEMENT AGENCY, TO THE EXTENT PERMITTED BY LAW. THE RECEIVING LAW ENFORCEMENT AGENCY SHALL BE PERMITTED TO OBTAIN SOME IDENTIFYING INFORMATION REGARDING THE COMPLAINT TO ALLOW INITIAL PROCESSING OF THE COMPLAINT. IF IT BECOMES NECESSARY FOR THE FURTHER PROCESSING OF THE COMPLAINT FOR THE COMPLAINANT TO DISCLOSE HIS OR HER IDENTITY, THE COMPLAINANT SHALL DO SO OR, AT THE OPTION OF THE RECEIVING LAW ENFORCEMENT AGENCY, THE COMPLAINT MAY BE DISMISSED.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL NOT APPLY TO AUTHORIZED UNDERCOVER OPERATIONS CONDUCTED BY ANY LAW ENFORCEMENT AGENCY.

(c) EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL COMPILE ON AT LEAST AN ANNUAL BASIS ANY INFORMATION DERIVED FROM TELEPHONE CALLS RECEIVED DUE TO THE DISTRIBUTION OF BUSINESS CARDS AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (4) AND THAT ALLEGE PROFILING. THE AGENCY SHALL MAKE SUCH INFORMATION AVAILABLE TO THE PUBLIC BUT SHALL NOT INCLUDE THE NAMES OF PEACE OFFICERS OR THE NAMES OF PERSONS ALLEGING PROFILING IN SUCH INFORMATION. THE AGENCY MAY ALSO INCLUDE IN SUCH INFORMATION THE COSTS TO THE AGENCY OF COMPLYING WITH THE PROVISIONS OF THIS SUBSECTION (4).

(5) THE TRAINING PROVIDED FOR PEACE OFFICERS SHALL INCLUDE AN EXAMINATION OF THE PATTERNS, PRACTICES, AND PROTOCOLS THAT RESULT IN PROFILING AND PRESCRIBE PATTERNS, PRACTICES, AND PROTOCOLS THAT PREVENT PROFILING. ON OR BEFORE AUGUST 1, 2001, THE P.O.S.T. BOARD SHALL CERTIFY THE CURRICULUM FOR SUCH TRAINING.

(6) NO LATER THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH LAW ENFORCEMENT AGENCY IN THE STATE SHALL HAVE WRITTEN POLICIES, PROCEDURES, AND TRAINING IN PLACE THAT ARE SPECIFICALLY DESIGNED TO ADDRESS PROFILING. EACH PEACE OFFICER EMPLOYED BY SUCH LAW ENFORCEMENT AGENCY SHALL RECEIVE SUCH TRAINING. THE WRITTEN POLICIES AND PROCEDURES SHALL BE MADE AVAILABLE TO THE PUBLIC FOR INSPECTION DURING REGULAR BUSINESS HOURS.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the highway users tax fund not otherwise appropriated, to the department of public safety, for allocation to the Colorado state patrol division, for the fiscal year beginning July 1, 2001, the sum of twenty-one thousand four hundred and forty-eight dollars (\$21,448), or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 2001