

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
H.P. 1038 - L.D. 1613

An Act to Prohibit Profiling and to Strengthen Civil Rights in Maine

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 5 MRSA §4684-C is enacted to read:

§4684-C. Civil rights officers

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Civil rights officer" means a law enforcement officer who has received special training approved by the Attorney General in identifying and investigating civil rights violations.

B. "Law enforcement agency" means an agency in the State charged with enforcement of state, county, municipal or federal laws or laws of a federally recognized Indian tribe, with the prevention, detection or investigation of criminal, immigration or customs laws or with managing custody of detained persons in the State and includes, but is not limited to, a municipal police department, a sheriff's department, the State Police, a university or college police department and the Department of Public Safety.

C. "Law enforcement officer" means a state, county or municipal official or an official of a federally recognized Indian tribe responsible for enforcing criminal, immigration or customs laws, including, but not limited to, a law enforcement officer who possesses a valid certificate issued by the Board of Trustees of the Maine Criminal Justice Academy pursuant to Title 25, section 2803-A.

2. Required civil rights officer. A law enforcement agency shall select, assign and secure training for a civil rights officer, notify the Attorney General of the name and contact information for the civil rights officer and notify the Attorney General of any change in assignment of the civil rights officer as soon as practicable after the change is made. The law enforcement agency shall make the contact information for the civil rights officer publicly available.

PART B

Sec. B-1. 5 MRSA c. 337-D, headnote is amended to read:

CHAPTER 337-D

PROFILING AND DATA COLLECTION

Sec. B-2. 5 MRSA §4751, sub-§3 is enacted to read:

3. Profiling. "Profiling" means the consideration of or reliance on, to any degree, actual or perceived race, color, sex, sexual orientation, gender identity, physical or mental disability, religion, ancestry or national origin, age or familial status in deciding which persons to subject to a traffic or pedestrian stop or in deciding the scope or substance of law enforcement activities following a traffic or pedestrian stop. "Profiling" does not mean consideration of or reliance on characteristics provided in a specific suspect description. For purposes of this subsection, "activities following a traffic or pedestrian stop" include, but are not limited to, asking questions of a person, frisking a person, conducting consensual and nonconsensual searches of a person or property, seizing of property, requiring vehicle occupants to exit a vehicle during a traffic stop, issuing a citation and making an arrest.

Sec. B-3. 5 MRSA §4755 is enacted to read:

§4755. Profiling prohibited

In enforcing the laws of this State, a law enforcement officer or law enforcement agency may not engage in profiling. Violations of this section are not enforceable under chapter 337-B but may form the basis of disciplinary proceedings by the Board of Trustees of the Maine Criminal Justice Academy to suspend or to revoke any certification issued by the board pursuant to Title 25, section 2806-A, subsection 5, paragraph J or to take other action the board determines to be appropriate pursuant to Title 25, section 2806-A, subsection 6.

PART C

Sec. C-1. 5 MRSA §4752, sub-§1, as enacted by PL 2021, c. 460, §1, is amended to read:

1. Information collected. Beginning July 1, ~~2023~~ 2024, a law enforcement agency shall record and retain the following information regarding traffic infractions occurring in this State:

- A. The number of persons stopped for traffic infractions;
- B. Characteristics of race, color, ethnicity, gender and age of each person described in paragraph A. The identification of such characteristics must be based on the observation and perception of the law enforcement officer responsible for reporting the stop. The person stopped may not be required to provide the information;
- C. The nature of each alleged traffic infraction that resulted in a stop;
- D. Whether a warning or citation was issued, an arrest was made or a search was conducted as a result of each stop for a traffic infraction; and

E. Any additional information the law enforcement agency determines appropriate. The additional information may not include any other personally identifiable information about a person stopped for a traffic infraction such as the person's driver's license number, name or address.

Sec. C-2. 5 MRSA §4753, sub-§1, as enacted by PL 2021, c. 460, §1, is amended to read:

1. Adoption of rules. By January 1, ~~2023~~ 2024, the Attorney General shall adopt rules for the recording, retention and reporting of information pursuant to section 4752 pertaining to persons stopped for traffic infractions. The information must include the characteristics of race, color, ethnicity, gender and age of the persons stopped, based on the observation and perception of the law enforcement officer making the stop. Rules adopted pursuant to this subsection are routine technical rules as defined in chapter 375, subchapter 2-A.

Sec. C-3. 5 MRSA §4754, as enacted by PL 2021, c. 460, §1, is amended to read:

§4754. Report; publication of data

Beginning January 15, ~~2024~~ 2025 and annually thereafter, the Attorney General shall provide to the joint standing committees of the Legislature having jurisdiction over judiciary matters and criminal justice and public safety matters and make available to the public a report of the information collected pursuant to this chapter. The report must include an analysis of the information and may include recommendations for changes in laws, rules and practices. Information reported may not include personally identifiable information.

Sec. C-4. Retroactivity. This Part applies retroactively to December 31, 2022.