

FIRST REGULAR SESSION

# HOUSE BILL NO. 528

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ELLINGTON.

0903H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal section 590.650, RSMo, and to enact in lieu thereof four new sections relating to criminal justice accountability.

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

Section A. Section 590.650, RSMo, is repealed and four new sections enacted in lieu thereof, to be known as sections 542.288, 542.289, 590.650, and 590.651, to read as follows:

2           **542.288. 1. (1) If a peace officer determines it is necessary to search a vehicle or**  
3 **person inside a vehicle regarding an alleged violation of law or ordinance, the peace officer**  
4 **may conduct the search only after complying with the provisions of subdivision (2) of this**  
5 **subsection.**

6           **(2) Prior to conducting a search under subdivision (1) of this subsection, a peace**  
7 **officer shall read the following statement either to the person with the authority to provide**  
8 **permission to search the vehicle or to the person who would be subject to the search,**  
9 **whichever applies: "I AM ASKING FOR YOUR CONSENT TO CONDUCT A SEARCH**  
10 **OF THE VEHICLE OR YOUR PERSON. YOU HAVE THE RIGHT TO REFUSE TO**  
11 **CONSENT TO THE SEARCH OR YOU MAY KNOWINGLY, FREELY, AND**  
12 **RIGHTS AS THEY HAVE BEEN READ TO YOU? DO YOU CHOOSE TO WAIVE**  
13 **YOUR RIGHT TO REFUSE MY REQUESTED SEARCH?".**

14           **(3) After reading the statement in subdivision (2) of this subsection, a peace officer**  
15 **may conduct the requested search only if the person subject to the search consents,**  
16 **knowingly, freely, and voluntarily, in writing, to the search.**

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           **2. A peace officer reading the statement required under subdivision (2) of**  
18 **subsection 1 of this section is not required to read the statement verbatim. Substantial**  
19 **compliance with the content of the statement is sufficient to comply with the requirement**  
20 **in subdivision (2) of subsection 1 of this section.**

21           **3. If the person subject to the search consents knowingly, freely, and voluntarily,**  
22 **such person shall sign a form, which shall include the following information:**

23           **(1) The date and location of the stop;**

24           **(2) The name and identification number of the peace officer making the request for**  
25 **consent to search;**

26           **(3) The names and identification numbers of any additional peace officers who**  
27 **actively participate in the discussion with the driver or passenger or passengers concerning**  
28 **the request for consent to search;**

29           **(4) A statement informing the driver or other person authorized to give consent of**  
30 **the right to refuse to grant consent to search, and that if the driver or other person**  
31 **authorized to give consent grants consent, the driver or other person authorized to give**  
32 **consent at any time for any reason may withdraw consent to search;**

33           **(5) A statement informing the driver or other person authorized to give consent of**  
34 **the right to be present during the search at a location consistent with the safety of both the**  
35 **peace officer and the motor vehicle occupant or occupants which may be knowingly**  
36 **waived;**

37           **(6) Check-off boxes to indicate whether consent has been granted, and if consent**  
38 **is granted, the driver or other person authorized to give consent shall check the**  
39 **appropriate box and sign and date the form; and**

40           **(7) If the driver or other person authorized to give consent refuses consent, the**  
41 **peace officer or the driver or other person authorized to give consent shall so note on the**  
42 **form and the driver or other person authorized to give consent shall not be required to sign**  
43 **the form.**

44           **4. A peace officer who requests permission to conduct a search shall document in**  
45 **a written report the following information regardless of whether the request for permission**  
46 **to conduct a search was granted or denied:**

47           **(1) The name of the driver or other person authorized to give consent to whom the**  
48 **request for consent is directed, and that person's gender, race or ethnicity, and, if known,**  
49 **date of birth;**

50           **(2) The names and identification numbers of all peace officers who actively**  
51 **participate in the search;**

52           **(3) The circumstances which constituted the reasonable suspicion giving rise to the**  
53 **request for consent;**

54           **(4) If consent initially is granted and then withdrawn, the fact that this occurred,**  
55 **and whether the search continued based on probable cause or other nonconsensual ground,**  
56 **or was it terminated as a result of the withdrawal of consent;**

57           **(5) A description of the type and quantity of any contraband or other property**  
58 **seized; and**

59           **(6) Whether the discussion concerning the request for consent to search or any**  
60 **ensuing consent search was recorded using any mobile video or audio equipment.**

61           **5. The peace officer shall sign and date the form and the report after each is fully**  
62 **completed.**

63           **6. A peace officer shall complete a report whenever, during any motor vehicle stop,**  
64 **the peace officer conducts a nonconsensual search of a motor vehicle, excluding vehicle**  
65 **searches begun as a consent search. The report shall include the following information:**

66           **(1) The date and location of the stop;**

67           **(2) The names and identification numbers of all peace officers who actively**  
68 **participated in the incident;**

69           **(3) The driver's name, gender, race or ethnicity, and, if known, date of birth;**

70           **(4) A description of the circumstances which provided probable cause to conduct**  
71 **the search or otherwise justified the search;**

72           **(5) A description of the type and quantity of any contraband or other property**  
73 **seized; and**

74           **(6) Whether the incident was recorded using mobile video or audio equipment.**

**542.289. 1. The reporting peace officer's supervisor shall review each report**  
2 **prepared under section 542.288 within fourteen days of the precipitating incident and, as**  
3 **appropriate, in conjunction with that review, may view any associated mobile video or**  
4 **audio tape.**

5           **2. The department of public safety shall adopt a protocol requiring that peace**  
6 **officer supervisors review mobile video or audio tapes of motor vehicle stops on a random**  
7 **basis. The protocol shall establish the schedule for conducting random reviews and shall**  
8 **specify whether and in what manner the personnel conducting the review shall prepare a**  
9 **written report on each randomized review of a mobile video or audio tape.**

10           **3. After conducting a review under subsections 1 and 2 of this section, the personnel**  
11 **conducting the review shall refer for investigation to the appropriate persons any incident**  
12 **that reasonably indicates a possible violation of section 542.288 concerning search and**  
13 **seizure procedures, nondiscrimination requirements, and mobile video or audio equipment**

14 **use requirements. Subsequent investigation shall be conducted by the attorney general.**  
15 **Appropriate personnel shall evaluate all incidents reviewed to determine the need to**  
16 **implement any intervention for the involved peace officer. If concerns arise, supervisors**  
17 **may require that the peace officer be counseled, receive additional training, or that some**  
18 **other nondisciplinary action be taken.**

590.650. 1. As used in this section "minority group" means individuals of African,  
2 Hispanic, Native American or Asian descent.

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

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

6 (2) The reasons for the stop;

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

8 (4) If a search was conducted, whether the individual consented to the search, the  
9 probable cause for the search, whether the person was searched, whether the person's property  
10 was searched, and the duration of the search **and the race or ethnicity, approximate age, and**  
11 **gender of each person searched;**

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

14 (6) **The number of drivers stopped for routine traffic enforcement by peace officers,**  
15 **the peace officer making each stop, the date each stop was made, the agency of the peace**  
16 **officer making each stop, and whether any warning or citation was issued [~~as a result of the~~**  
17 **stop];**

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

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

20 (9) If an arrest was made, the crime charged; [~~and~~]

21 (10) **Whether any property was seized, with a description of that property;**

22 (11) **Whether the peace officer making the stop encountered any physical resistance**  
23 **from the driver or passenger or passengers;**

24 (12) **Whether the peace officer making the stop engaged in the use of force against**  
25 **the driver, passenger, or passengers for any reason;**

26 (13) **Whether any injuries resulted from the stop;**

27 (14) **Whether the circumstances surrounding the stop were the subject of any**  
28 **investigation and the results of that investigation;**

29 (15) **Whether any written citation or any oral or written warning was issued as a**  
30 **result of the stop; and**

31           **(16)** The location of the stop. **If the peace officer making the stop is a member of the**  
32 **Missouri state highway patrol, the location shall be the highway patrol troop location and**  
33 **county in which the stop was made. For all other peace officers, the location shall be the**  
34 **city or county in which the stop was made.** Such information may be reported using a format  
35 determined by the department of public safety which uses existing citation and report forms.

36           3. (1) Each law enforcement agency shall compile the data described in subsection 2 of  
37 this section for the calendar year into a report to the attorney general.

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

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

42           4. (1) The attorney general shall analyze the annual reports of law enforcement agencies  
43 required by this section and submit a report of the findings to the governor, the general assembly  
44 and each law enforcement agency no later than June first of each year.

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

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

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

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

53           (d) A compilation of the information reported by law enforcement agencies pursuant to  
54 subsection 2 of this section.

55           5. Each law enforcement agency shall adopt a policy on race-based traffic stops that:

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

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

60           (a) Determine whether any peace officers of the law enforcement agency have a pattern  
61 of stopping members of minority groups for violations of vehicle laws in a number  
62 disproportionate to the population of minority groups residing or traveling within the jurisdiction  
63 of the law enforcement agency; and

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

67 (3) Provides for appropriate counseling and training of any peace officer found to have  
68 engaged in race-based traffic stops within ninety days of the review. The course or courses of  
69 instruction and the guidelines shall stress understanding and respect for racial and cultural  
70 differences, and development of effective, noncombative methods of carrying out law  
71 enforcement duties in a racially and culturally diverse environment.

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

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

78 8. A peace officer who stops a driver of a motor vehicle pursuant to a lawfully conducted  
79 sobriety check point or road block shall be exempt from the reporting requirements of subsection  
80 2 of this section.

81 **9. Each peace officer making a stop covered by subdivision (6) of subsection 2 of**  
82 **this section shall be assigned an anonymous identification number by the peace officer's**  
83 **employing agency. The anonymous identifying number shall be public record and shall**  
84 **be reported to the criminal justice information services division within the Missouri state**  
85 **highway patrol to be correlated along with the data collected under subsection 2 of this**  
86 **section. The correlation between the identification numbers and the names of the peace**  
87 **officers shall not be a public record and shall not be disclosed by the law enforcement**  
88 **agency except when required by order of a court of competent jurisdiction to resolve a**  
89 **claim or defense properly before the court.**

**590.651. 1. The department of public safety shall create a management awareness**  
2 **program which will develop and implement computerized systems for maintaining and**  
3 **retrieving information necessary for the supervision and management of peace officers to**  
4 **promote professionalism and civil rights integrity, to identify and modify potentially**  
5 **problematic behavior, and to promote best practices.**

6 **2. The management awareness program shall consist of the following information:**

7 **(1) All items of information in connection with all motor vehicle stops that are to**  
8 **be recorded in a written report, form, or log, under section 590.650, except duplicate**  
9 **information need not be entered, and information as to whether the incident was recorded**  
10 **with any mobile video or audio equipment unless a patrol vehicle was equipped with**  
11 **mobile video or audio equipment that was not functioning;**

12 **(2) Information on civilian compliments and other indicia of positive performance;**  
13 **information on misconduct investigations; reports on use of force associated with motor**

14 vehicle stops; on-duty and off-duty criminal arrest and criminal charges; civil suits  
15 involving alleged misconduct by peace officers while on duty; civil suits in which a peace  
16 officer is named as a party involving off-duty conduct that alleges racial bias, physical  
17 violence, or threats of violence; and

18 (3) Implementation of interventions; and training information including the name  
19 of the course, date started, date completed, and training location for each member  
20 receiving training.

21 3. All information in the management awareness program on substantiated  
22 misconduct investigations, civilian compliments, and other indicia of positive performance  
23 which can be attributed to a specific peace officer shall be made available to that peace  
24 officer on an annual basis upon written request. Nothing in this subsection shall be  
25 construed as granting such peace officer access to confidential documents other than those  
26 identified in this subsection, or to any information which cannot be attributed to the peace  
27 officer requesting the information.

28 4. If information about a single incident is included within the management  
29 awareness program from more than one document, a common control number or other  
30 means to link the information from different sources shall be used so that the user can  
31 cross-reference the information and perform analyses.

32 5. The department of public safety shall ensure that information included within  
33 the management awareness program in an accurate and timely fashion and is maintained  
34 in a secure manner.

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