

2010 -- H 7244

LC00727

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL PROCEDURE

Introduced By: Representatives Segal, D Caprio, Silva, Slater, and Diaz

Date Introduced: January 27, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 12 of the General Laws entitled "Criminal Procedure" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 28.1

4 NON-ENFORCEMENT OF FEDERAL IMMIGRATION LAW

5 **12-28.1-1. Declaration of policy.** – The general assembly finds that effective policing
6 demands the establishment of trust between police officers and the community they serve, trust
7 that inspires confidence in victims to come forward and report crimes and that allows
8 investigations to proceed efficiently. Because state or local enforcement of federal immigration
9 laws can only undermine that trust, raise concerns about racial profiling, impede investigations
10 and deter undocumented residents from reporting crime in their communities, the purpose of this
11 chapter is to promote the public safety and prevent discrimination the basis of race, color,
12 ethnicity or immigration status by recognizing that local law enforcement should properly play a
13 limited role in matters relating to a person's immigration status.

14 **12-28.1-2. Prohibition by state or local enforcement officer as to immigration status.**

15 = (a) No state or local law enforcement officer or agency shall inquire of an individual, or
16 seek documentation from him or her, about his or her immigration status, unless otherwise
17 required by federal law or court order or necessary to verify the immigration status of a person
18 who is arrested for a felony and the officer or agency has reasonable grounds to believe that the
19 person's status is in violation of immigration laws; provided, however, an arrestee's race, color,

1 ethnicity, national origin, or lack of English language proficiency shall not constitute reasonable
2 grounds.

3 (b) No law enforcement officer shall use an arrest or criminal charge as a pretext for
4 verifying the immigration status of a person.

5 **12-28.1-3. Nonuse of agency funds.** – (a) No law enforcement agency of the state or of
6 any political subdivision, shall use agency funds, equipment or personnel for the purpose of
7 detecting or apprehending persons whose only violation or alleged violation of law is that they
8 are persons of foreign citizenship who are in violation of federal immigration laws.

9 (b) No law enforcement agency of the state or of any political subdivision shall enter into
10 an agreement with the federal government to assist in the enforcement of federal immigration
11 laws pursuant to 8 U.S.C. section 1357(g) or any similar federal program.

12 **12-28.1-4. Cooperation with federal authorities.** – Nothing in this chapter shall be
13 construed to prohibit any state or local law enforcement officer or employee from cooperating
14 with federal immigration authorities as required by federal law.

15 **12-28.1-5. Training.** – Each state local law enforcement agency shall train its officers on
16 complying with the provisions of this chapter.

17 **12-28.1-6. Enforcement.** – (a) Any individual who alleges a violation of section 12-28.1-
18 2 may file a civil action for damages and any appropriate and equitable relief in superior court.
19 The court may allow a prevailing plaintiff reasonable attorneys' fees as part of the costs.

20 (b) An organization chartered for the purpose of combating discrimination, racism, or of
21 safeguarding civil liberties, or of promoting full, free, or equal employment opportunities, may
22 seek appropriate relief in a civil action against any police department for violating section 12-
23 28.1-3, and may be awarded its costs, including attorneys' fees, for bringing such an action.

24 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would prohibit state and local law enforcement authorities from inquiring as to
2 the immigration status of any person, whether witness or arrestee, unless the arrestee was arrested
3 for a felony, and the arresting officer or agency has reasonable grounds to believe that the
4 person's status is a violation of immigration law. The act would also prohibit local law
5 enforcement from entering into any agreement to enforce federal immigration law, and would
6 provide for civil penalties, including costs and attorneys' fees, for any violations of the provisions
7 of this chapter.

8 This act would take effect upon passage.

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