

By Mr. Caron of Springfield, petition of Paul E. Caron relative to high speed pursuit by police officers. Public Safety.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Ninety-Four.

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AN ACT RELATIVE TO HIGH SPEED PURSUIT.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Section 98 of Chapter 41 of the General Laws, as appearing  
2 in the 1992 Official Edition, is hereby amended by inserting after  
3 subsection (g) the following new subsections: —

4 Section 98H. (a) A police officer, while in the line of duty and  
5 without a warrant, may engage in fresh pursuit of a motorist who  
6 is trying to flee from or elude him or her if the officer has  
7 reasonable cause to believe that the fleeing person has, or is about  
8 to commit, a felony. The officer should make every available effort  
9 to identify himself or herself as a police officer and to notify the  
10 motorist that he or she wishes to detain the motorist. In deciding  
11 whether or not to pursue a fleeing motorist the police officer  
12 should consider the risks it may create compared to the seriousness  
13 of the harm committed or threatened by the motorist.

14 The officer should also consider possible alternative ways of  
15 later apprehending the fleeing motorist unless the officer  
16 reasonably believes that the fleeing person is about to commit a  
17 violent crime causing serious harm or death to any person.

18 (b) Immediately upon pursuing a fleeing motorist the officer  
19 shall notify a supervisor, whenever one is on duty, and provide  
20 him with the following information:

- 21 (1) Reasons for the pursuit;
- 22 (2) A description of the pursued vehicle and its occupant;
- 23 (3) Its location and direction of travel;
- 24 (4) Road and weather conditions;

25 (5) Any other information useful in evaluating the risks created  
26 by the pursuit and for promoting the safety of anyone involved  
27 in or affected by it;

28 (c) The police officer may pursue the fleeing motorist anywhere  
29 in Massachusetts. If an officer pursues a motorist beyond his or  
30 her ordinary jurisdiction the officer should attempt to notify the  
31 police force of that jurisdiction;

32 (d) A police officer engaged in a pursuit should strive at all  
33 times to maintain control of his or her vehicle and to drive in a  
34 manner that allows for a safe stop at any time that this may be  
35 necessary. An officer in an unmarked vehicle should yield pursuit  
36 to a marked police vehicle;

37 (e) If the police officer reasonably believes that the fleeing  
38 motorist has, or is about to, commit a violent crime causing  
39 serious bodily harm or death to any person, the officer may:

40 (1) Use firearms if all of the following conditions are met:

41 (i) it constitutes the last resort to defend the officer or some  
42 other person from the imminent commission of such a violent  
43 crime;

44 (ii) the officer does not have reasonable cause to believe that  
45 his or her shots will cause harm to any bystander.

46 (2) If the officer also reasonably believes that the fleeing  
47 motorist will otherwise escape he or she may:

48 (i) Establish, or have other police establish, a roadblock that  
49 is apparent to the fleeing motorist and provides that person a  
50 significant chance to avert crashing into it;

51 (ii) Call for one other police vehicle to assist in pursuing the  
52 fleeing motorist. When two police vehicles are in pursuit they  
53 should refrain from unnecessary passing of each other, and  
54 maintain a space between their vehicles necessary for sudden stops  
55 and turns;

56 (iii) Call for aerial assistance. The aerial unit should be in  
57 constant contact with the pursuing ground vehicles and  
58 coordinate its pursuit with theirs.

59 Section 98I. (a) A police officer should discontinue the pursuit  
60 of a fleeing motorist under any of the following circumstances:

61 The officer or supervisor determines that the danger of  
62 continued pursuit outweighs the danger to the public if the fleeing  
63 motorist escapes. One example of such a case is when the officer

64 reasonably believes that the fleeing motorist is a juvenile who has  
65 not committed a serious crime;

66 (2) The police have been able to identify the fleeing motorist  
67 so that they can apprehend him or her later;

68 (3) The police officer has pursued the fleeing motorist for three  
69 miles on a highway, or for one mile in a town or city;

70 (4) The pursued vehicle's location is no longer ascertainable or  
71 the prevailing conditions suggest that continued pursuit is futile;

72 (b) None of the above restrictions apply when the police officer  
73 pursues a motorist that he or she reasonably believes is about to  
74 commit a violent crime causing serious physical harm or death  
75 to any person.

76 (c) The discontinuance of a pursuit does not prohibit the police  
77 officer from turning off all emergency equipment and following  
78 a vehicle at a safe speed, or remaining in the vicinity to make  
79 another attempt to detain the motorist if the opportunity and  
80 conditions permit.

81 Section 98J. If a police officer pursues any fleeing motorist, the  
82 officer's department head must file a report of the incident with  
83 the Secretary of Public Safety within 30 days following the  
84 pursuit. A pursuit must be reported under this section if it is a  
85 pursuit by a law enforcement officer of a motor vehicle being  
86 operated pursuant to the provisions of these sections. The report  
87 must contain information concerning the reasons for and  
88 circumstances surrounding the pursuit, including: the alleged  
89 offense; the length of the pursuit in distances and times; the  
90 outcome of the pursuit and any charges filed against the motorist  
91 as a result of the pursuit; injuries and property damage resulting  
92 from the pursuit; and other information deemed relevant by the  
93 Commissioner.

94 Section 98K. (a) On or before October 1, 1994 each police  
95 department of the Commonwealth is to establish written  
96 procedures to govern the conduct of its police officers who engage  
97 in pursuits of fleeing motorists in Massachusetts. These  
98 procedures may be tailored to present circumstances, but in all  
99 cases must conform to all the guidelines of this statute. They must  
100 also address the following matters:

101 (1) Guidelines, commensurate with public safety and effective  
102 law enforcement, for when a police officer may initiate the pursuit  
103 of a motorist;

104 (2) Provisions for preparing police vehicles for pursuits and for  
105 assignments of the agency's vehicles to a particular pursuit;

106 (3) Duties and number of the agency's law enforcement  
107 vehicles, displaying red lights and siren, that are permitted to  
108 participate in the pursuit of a vehicle operated in accordance to  
109 the provisions of these sections;

110 (4) Requirements for the operation of the pursuing police  
111 officer's vehicle;

112 (5) Circumstances and procedures for terminating a pursuit;

113 (6) Communication procedure during a pursuit, including for  
114 coordinating a pursuit with officers from another jurisdiction;

115 (7) Roles and responsibilities of the agency's on-duty  
116 supervisors during a pursuit;

117 (8) Use of deadly force during a pursuit;

118 This includes the use and proper application of such tactics,  
119 including but not limited to, bumping, ramming, blocking, or  
120 boxing in the pursuit motorist;

121 (9) Roles and responsibility of police officer during intra-  
122 jurisdictional and inter-jurisdictional pursuits;

123 (10) Methods of evaluation of pursuits;

124 (11) Providing assistance to any person injured during a  
125 pursuit.

126 Police pursuit copies. Copies of the written procedures  
127 governing police pursuits, or any subsequent modifications, must  
128 specify the effective date.

129 Copies available to public. Copies of current written procedures  
130 governing police pursuits must be available to the public on  
131 request. Copies of written procedures governing police pursuits  
132 and any subsequent modifications of the procedures must be  
133 distributed by the chief law enforcement officers to licensees who  
134 are employed or appointed by the agency.

135 The chief law enforcement officer of each law enforcement  
136 agency shall affirm to the board compliance with section no later  
137 than October 15, 1994. The board will supply the compliance form  
138 to be used. If any agency begins operation after October 1, 1994,  
139 the chief law enforcement officer shall affirm to the board  
140 compliance with section no later than 15 days after the agency  
141 begins operation.

142 (b) If the police officer during a pursuit strictly complies with  
143 all of his or her department guidelines, as well as those in this  
144 statute, both the police officer and the police department will be  
145 immune from all civil liability for injuries to persons or property  
146 that may occur during a pursuit.

147 Section 98L. Every police department must establish written  
148 procedures for the recurrent training of police officers in  
149 conducting pursuits. These procedures must include how police  
150 officer will assist any person injured during the course of a pursuit.

151 The chief law enforcement officer of each law enforcement  
152 agency shall adopt specified training requirements concerning  
153 pursuits based on:

154 (1) written procedures governing conduct of law enforcement  
155 officers who are in pursuit of a vehicle being operated pursuant  
156 to the provisions of these sections;

157 (2) type of agency and geographical location;

158 (3) training needs of the law enforcement officers within the  
159 agency;

160 (4) overall training needs of the agency; and

161 (5) an analysis of the evaluations of previous pursuits. Local  
162 governments to adopt procedures and training requirements.

163 Each political subdivision and state law enforcement agency that  
164 employs persons licensed by the law enforcement officer standards  
165 and training board under chapter must establish written  
166 procedures to govern the conduct of law enforcement officers who  
167 are in pursuit of a vehicle being operated in violation of  
168 chapter , and requirements for the training of law enforcement  
169 officers in conducting pursuits. The procedures must state how  
170 law enforcement officers will provide assistance to a person  
171 injured during the course of a pursuit. A political subdivision or  
172 agency that does not establish procedures and requirements by  
173 October 1, 1994, is subject to licensing sanctions of the law  
174 enforcement officer standards and training board.

175 Section 98M. There is created a rebuttable presumption that  
176 the owner of a motor vehicle was the operator of that vehicle at  
177 the time of its pursuit.

178 Section 98N. (a) Any motorist who knowingly flees or  
179 attempts to elude a police officer, having received a signal from  
180 the officer to stop, has committed a crime and shall be liable for  
181 the following sanctions:

182 (1) Mandatory minimum jail sentences of three months to one  
183 year;

184 (2) Forfeiture of the motor vehicle;

185 (3) A loss of one's license, or a restriction upon obtaining one,  
186 for up to one year. This period of loss or restriction upon the  
187 fleeing motorists license privilege should be tacked on to any  
188 already existing period of suspension or revocation of that  
189 person's license;

190 (4) Fines of \$1,000.00 to \$5,000.

191 (b) If a fleeing motorist, during a police pursuit, strikes any  
192 individual and causes him or her personal injury, this harm will  
193 constitute a criminal assault and battery. The motorist shall also  
194 be civilly liable for all harms to persons or property caused by  
195 him or her during the pursuit under ordinary rules of law.



