

A Study of 50 States'

Stop and Identify Statutes

A new interpretation of stop and identify states, to create a standard of classification and an accurately quantified model of such states.

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A Study of 50 States' Stop and Identify Statutes

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ABSTRACT – In this study we sought to create new interpretation and standard for identifying Stop and Identify (S&I) statutes. Prior to this, no standard or universal definition for “stop and identify states” existed. So we evaluated the court cases that defined an S&I Statute, and created a definition we could use to measure statutes to see if they should be classified as S&I. We applied this standard definition to an existing list of S&I statutes, and measured their accuracy according to the terms defined. Furthermore, we looked at existing statutes in states that were not previously considered stop and identify states to determine if any of them should also be added to the list of S&I statutes. We compiled a new list of S&I statutes, and identified the inconsistencies and inaccuracies that exist in all previous compilations. It is our hope that with the creation of a standard definition for classifying S&I statutes, we can correct the inaccuracies which exist in current lists of stop and identify statutes.

Introduction

As of conducting this study, there does not appear to be an accurate consensus on how many states there are with stop and identify statutes, and there is not clear definition of what a stop and identify state is either. After establishing a definition based on the laws and cases which formed such statutes, we found that there are 28 states that can be identified as stop and identify.

The reason for conducting this study

Currently there is one list of S&I statutes that is referenced by many S&I related articles. The list compiled for the ILRC entitled *Stop and Identify Statutes in the United States* (2018) seems to suggest that there are 24 states with what can be called “stop and identify statutes”. However, this list which is the primary resource for most S&I related content, didn’t aim to be a list of S&I statutes. Rather, it is a list that is intended to let immigrants in the US know when they are required by law to identify themselves. And it does not itself attempt to quantify the number of states with statutes, but it is a list of statutes related to stop and identify, and immigration (ILRC S&I Statutes in The US 2018).

Therefore, this study was conducted to define a stop and identify statute, a stop and identify state, and quantify the actual number of states with these types of statutes.

The goal of this study

The goal of this study is to deliver a more accurate, quantified list of states with S&I statutes, an updated model of S&I states, and develop practical definitions.

Defining stop and Identify

In order to accurately measure statutes, we first defined what a “stop and identify statute” is, based on the following cases that formed them; *State v. White*, 97 Wn. 2d 92 (Wash. 1982), *Hiibel v. Sixth Jud. Dist. Ct. of Nev.*, Humboldt Cty, 542 U.S. 177 (2004), *Terry v. Ohio*, 392 U.S. 1 (1968), and *Pennsylvania v. Mimms*, 434 U.S. 106 (1977).

How we defined stop and identify statute

Stop and Identify Statute: "A statute; which being passed by a state, allows officers to demand from, or require under penalty of law, an individual to accurately identify himself to police officers- either by name or by state issued ID- when: reasonable suspicion or probable cause for a crime, potential crime, violation of a federal law, statute, ordinance or other reason for lawful arrest, or detainment exists."

How we defined stop and identify state

Stop and Identify State: “A state which has enacted a statute that can be defined as a stop and identify statute; which is not narrow in scope and broadly allows officers to demand from, or require under penalty of law, an individual to accurately identify himself to police officers or other law enforcement.”

The exclusion of traffic laws

Furthermore, to keep consistency with previous lists, we did not consider laws that pertain to drivers of vehicles, their passengers, or traffic laws.

With the exception of Hawaii, whose traffic law also applies to pedestrians.

The exclusion of very limited S&I laws

Four states we found have what may be considered S&I statutes. However, we found that some S&I statutes were so limited, that qualifying a state with statutes, with such limited scopes would be misleading and could possibly lead to confusion.

The four states we excluded were Alaska, Maryland, Minnesota, and Pennsylvania. We included our reasoning for excluding them below.

The findings

When we compared existing statutes with our definition, we found that there are at least 32 states that have “stop and identify statutes”.

28 of which have S&I statutes which are broad enough to classify the state as being a “Stop and Identify State”. This number includes five states that were previously not recognized, and removed one that should no longer be considered S&I.

Different types of S&I laws

Some laws specifically related to identification, while others are part of a different statute which also includes a mention of an officer being able to demand to see a suspects identification, or that a suspect can be punished for failing to do so. In all, we identified 4 types of S&I Laws. **The four main types of stop and identify laws:**

We found that stop and identify statutes were codified in 4 different types of statutes.

1. **Terry Stops: 16 states** codified their stop and identify statutes in Terry stop, stop and frisk, or detain for questioning statutes.
2. **Detention for ID: 7 States** codified their stop and identify statutes in statutes which were created solely to require a suspect to identify himself or disclose his name.
3. **Resisting Officers: 2 States** codified their stop and identify statutes in resisting arrest, or similar statutes.
4. **Loitering: 3 States** codified their stop and identify statutes in loitering statutes by creating a penalty for failing to identify.

28 States with "Stop and Identify" Statutes

State	Source	State	Source
Alabama	Source	Montana	Source
Arizona	Source	Nebraska	Source
Arkansas	Source	Nevada	Source
Colorado	Source	New Mexico	Source
Delaware	Source	New York	Source
Florida	Source	North Carolina	Source
Georgia	Source	North Dakota	Source
Hawaii	Source	Ohio	Source
Illinois	Source	Rhode Island	Source
Indiana	Source	Tennessee	Source
Kansas	Source	Texas	Source
Louisiana	Source	Utah	Source
Maine	Source	Vermont	Source
Missouri	Source	Wisconsin	Source

How "Stop and Identify Laws are Codified by State

State	Type	State	Type
Alabama	Terry Stop	Montana	Terry Stop
Arizona	Detention for ID	Nebraska	Terry Stop
Arkansas	Loitering	Nevada	Terry Stop
Colorado	Terry Stop	New Mexico	Detention for ID
Delaware	Loitering	New York	Terry Stop
Florida	Terry Stop	North Carolina	Resisting Officers
Georgia	Loitering	North Dakota	Terry Stop
Hawaii	Detention for ID	Ohio	Detention for ID
Illinois	Terry stop	Rhode Island	Terry Stop
Indiana	Detention for ID	Tennessee	Terry Stop
Kansas	Terry stop	Texas	Detention for ID
Louisiana	Resisting Officers	Utah	Terry Stop
Maine	Terry Stop	Vermont	Detention for ID
Missouri	Terry Stop	Wisconsin	Terry Stop

Why we included statutes related to loitering

We included statutes related to loitering, if failure to show ID, or identify oneself to officers could result in arrest, or a citation for loitering. We did this because loitering can be broadly applied to many individuals. An officer only needs to suspect someone who appears to be standing of loitering to demand that he show his identification. As a result, some of these statutes were sufficiently broad enough to include. Additionally, Georgia was already included on previous lists due to their loitering code.

Why we included Tennessee and Missouri

Other lists do not consider TN or MO to be states with stop and identify statutes. Each state requires its own explanation.

Tennessee statute TN Code § 7-3-505 (2019) allows officers and other law enforcement to require someone to identify themselves within metropolitans. We found this application to be sufficiently broad.

Missouri on the other hand has a stop and identify statute which only applies in Kansas City and St. Louis. However, because Mo. Rev. Stat. §84.710(2) is a statute, and it is applied to more than one city, we found that its statute was sufficiently broad enough to fit our definition.

Why we did not include Maryland or Minnesota

Both Maryland and Minnesota have very limited stop and identify statutes related to handguns. In Minnesota, the law applies only to pistol permit holders. Maryland loosely allows for a “stop and identify” only if they suspect the suspect is carrying a handgun illegally. Neither of these were broad enough to justify adding.

Why we did not include Alaska

Alaska's Tit. 12. § 12.50.201 (2020), certainly has stop and identify aspects. However, it is limited to a few specific crimes, and applies to witnesses and those near specifically identified crime scenes. Such as: crime scenes to oil pipelines, airports or arson. The crimes that it applies to are so specific, that we do not find that this statute is broad enough to be included.

Why we did not include Pennsylvania

Pennsylvania's Title 34 § 904. Resisting or interfering with an officer, includes language that allows GAME/wildlife officers to require suspects to identify themselves. Although this language was once thought to allow all officers to demand the names of suspects, *Com v. Ickes* found that interpretation to be unconstitutionally broad, and the law has since been refined. Therefore the code is specific to wildlife officers, and very limited in scope.

Why we removed New Hampshire

Previous stop and identify statutes include NH. But, the statute has changed. It did once allow an officer to “demand” identification, but that terminology has been removed, and the statute now states that violating the statute is not grounds of a crime on its own. As such, the bill does not rise to the level of a “demand” and does not meet our standards.

A note on how some statutes are interpreted by courts

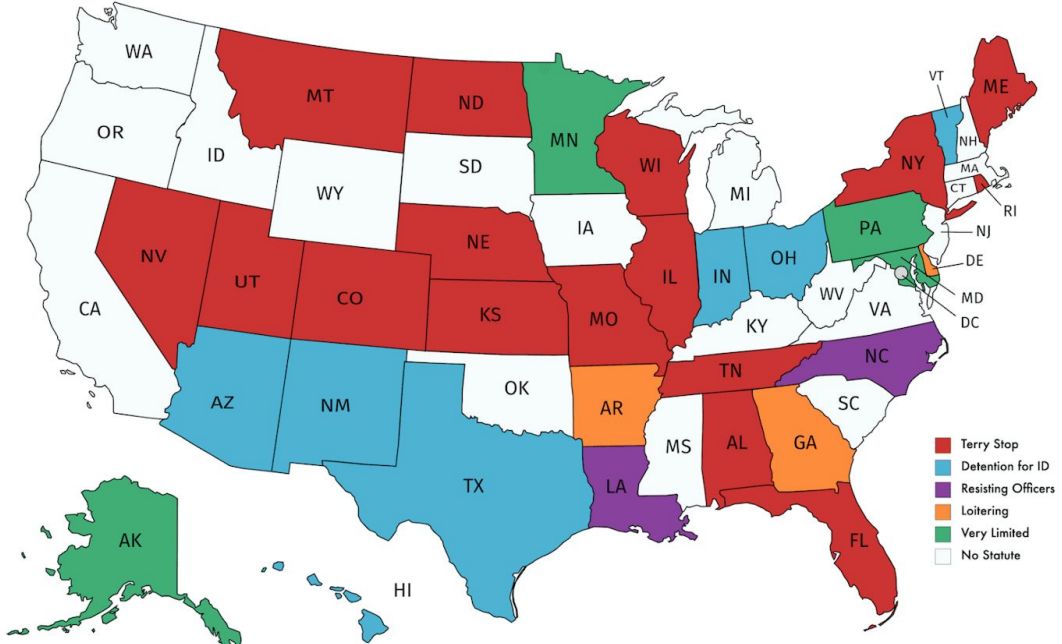
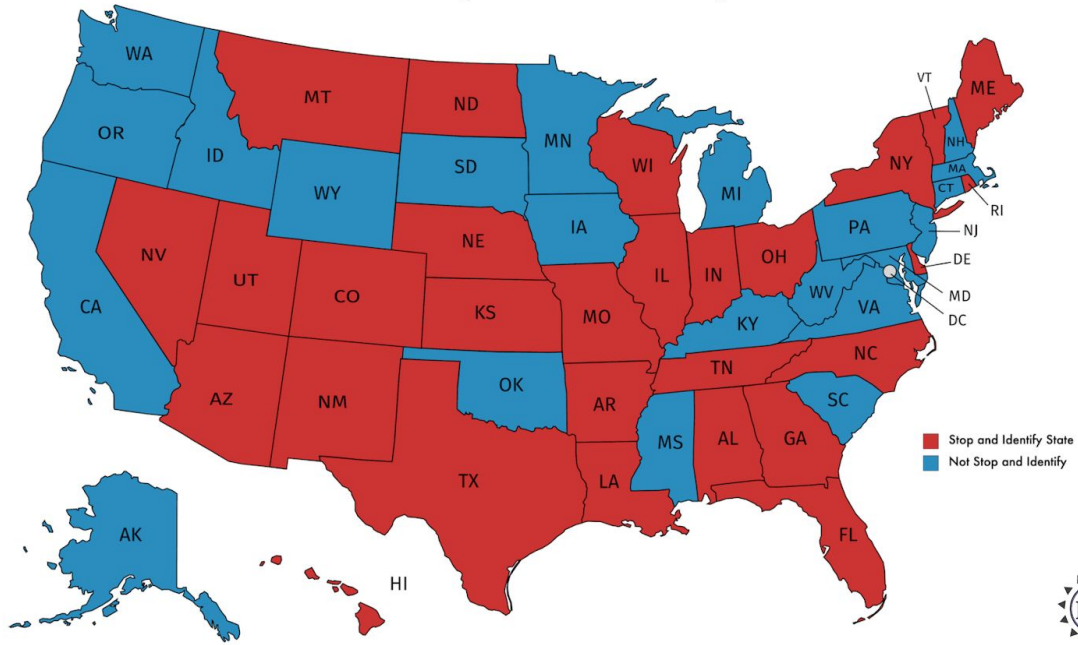
One statute, North Carolina's “resisting Officer” law is also included as the court case *State v. Swift*, 105 N.C. App. 550 (N.C. Ct. App. 1992) determined that a suspect failing to disclose his identity upon arrest was resisting arrest.

Conversely, a West Virginia case *State v. Srnsky*, 213 W. Va. 412 (W. Va. 2003) decided that failing to identify oneself did not violate WV's resisting arrest statute.

Recently Proposed Stop and Identify Statutes

Three states on our list have proposed stop and identify statutes within the last decade, each of which was not enacted. These states are; Kentucky, Oklahoma and Virginia.

States with Stop and Identify Statutes



HOW STOP AND IDENTIFY STATUTES ARE CODIFIED

This is the complete list of states, along with cited statutes, and additional information:

State	S&I Statute?	Cited Code
Alabama	Yes	AL. Code Title 15. Criminal Procedure § 15-5-29
Alaska	VL	AK Tit. 12. § 12.50.201. Temporary detention and identification of persons
Arizona	Yes	Ari. Rev. Stat. Tit. 13, §2412 Refusing to provide a truthful name...
Arkansas	Yes	Ar. Tit.5 Chap.71 Subchap. 2 § 5-71-213 - Loitering.
California	No	
Colorado	Yes	Col. Rev. Stat. Sec. 16-3-103. Stopping a suspect.
Connecticut	No	
Delaware	Yes	Del. Code Ann., Tit. 11, §§1902, 1321(6) Loitering
Florida	Yes	FL. Title XLVII 901.151 Stop and Frisk Law.
Georgia	Yes	Ga. Code Ann. §16-11-36(b) loitering
Hawaii	Yes	§291C-172 Refusal to provide identification.
Idaho	No	
Illinois	Yes	Ill. Comp. Stat., ch. 725, §5/107-14
Indiana	Yes	Indiana Code §34-28-5-3.5
Iowa	No	Not even at all traffic stops. See State Vs. Coleman
Kansas	Yes	Kan. Stat. Ann. §22-2402(1)
Kentucky	No, RP	Senate Bill 89 2020 not passed, withdrawn Reportedly one
Louisiana	Yes	La. CCPA., Art. 215.1(A); La. Rev. Stat. 14:108(B)(1)(c) Resisting Arrest
Maine	Yes	Title 17-A §15-A. Issuance of summons for criminal offense
Maryland	VL	MD Crim Law Code § 4-206 (2019) Limited search, seizure, and arrest
Massachusetts	No	
Michigan	No	
Minnesota	VL	624.714 CARRYING OF WEAPONS WITHOUT PERMIT; PENALTIES.

Mississippi	No	
Missouri	Yes, <i>L, SL&KC</i>	Mo. Rev. Stat. §84.710(2)
Montana	Yes	Mont. Code Ann. §46-5-400
Nebraska	Yes	Neb. Rev. Stat. §29-829
Nevada	Yes	Nev. Rev. Stat. §171.122
New Hampshire	No	N.H. Rev. Stat. Ann. §594:2, and 644:6 Loitering or Prowling
New Jersey	No	
New Mexico	Yes	N.M. Stat. § 30-22-3
New York	Yes	NY CPL § 140.50 to stop, question and possibly frisk that person for a weapon
North Carolina	Yes, <i>TSCI</i>	§ 14-223. Resisting officers.
North Dakota	Yes	29-29-21. Temporary questioning of persons in public places
Ohio	Yes	2921.29 Failure to disclose personal information.
Oklahoma	No, <i>RP</i>	Was recently proposed
Oregon	No	
Pennsylvania	VL. <i>TSCI</i>	Title 34 § 904. Resisting or interfering with an officer.
Rhode Island	Yes	R.I. Gen. Laws §12-7-1
South Carolina	No	
South Dakota	No	
Tennessee	Yes, <i>L</i>	TN Code § 7-3-505 (2019)
Texas	Yes	Tex. Penal Code § 38.02. Failure to Identify
Utah	Yes	Ut. Code Ann. §77-7-15
Vermont	Yes	Vt. Stat. Ann., Tit. 24, §1983
Virginia	No, <i>RP</i>	Was considered in 2011
Washington	No	
West Virginia	No, <i>TSCI</i>	
Wisconsin	Yes	Wis. Stat. §968.24
Wyoming	No	

Table Key:
S&I = Stop and Identify
RP = Recently proposed, but did not pass state legislature
TSCI =Through state court interpretation
SL&KC =St. Louis and Kansas City
L =Limited, for the purposes of this study, L statutes are considered as a state having a statute
VL =Very Limited, for the purposes of this study, VL statutes are considered as NOT having a statute

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