

1999 ASSEMBLY BILL 769

February 17, 2000 – Introduced by Representatives WIECKERT, LA FAVE, SPILLNER, STONE, LADWIG, SUDER, DUFF, MUSSER, ALBERS, OLSEN, PETTIS, GUNDERSON, MILLER, HUNDERTMARK and OTT, cosponsored by Senators FITZGERALD, HUELSMAN and ROESSLER. Referred to Committee on Judiciary and Personal Privacy.

1 **AN ACT to amend** 343.237 (1) (b), 343.237 (3) (intro.), 343.237 (3) (b), 343.237 (3)
2 (c) (intro.), 343.237 (4) (intro.), 343.237 (4) (b) and 343.237 (7) of the statutes;
3 **relating to:** law enforcement agency access to photographs of applicants for
4 operators' licenses and identification cards.

Analysis by the Legislative Reference Bureau

With limited exceptions, current law requires the department of transportation (DOT) to take a photograph of all applicants for a driver's license or identification card. DOT may keep copies of the photographs for its own use but generally must keep the photographs confidential. However, DOT may release a photograph to the individual whose photograph was taken. In addition, DOT may under certain circumstances release a copy of a photograph taken on or after September 1, 1997, to a Wisconsin law enforcement agency or a law enforcement agency of a physically adjacent state. Beginning January 1, 2003, DOT may not release photographs to any person other than the subject of the photograph.

DOT may release a copy of a photograph to a Wisconsin law enforcement agency only if the agency submits a written request specifying the name of the person whose photograph is requested and stating that the photograph is requested for the purpose of investigating unlawful activity, looking for a missing person or identifying an accident victim or a deceased person. DOT may provide a copy of a photograph to a law enforcement agency of a physically adjacent state if the agency makes a written request in the same manner as a Wisconsin law enforcement agency and if the

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physically adjacent state provides Wisconsin law enforcement agencies with access to similar information.

If a law enforcement agency receives a copy of a photograph from DOT, the agency must keep the copy of the photograph confidential and may disclose it only if necessary to perform a law enforcement function. When the copy of the photograph is no longer necessary for the investigatory or identification purpose specified in its request for the copy of the photograph, the law enforcement agency must destroy any copies of the photograph in its possession.

This bill allows DOT to release a copy of a photograph to federal law enforcement agencies if the federal law enforcement agency makes a written request in the same manner as a Wisconsin law enforcement agency. A federal law enforcement agency that receives a copy of a photograph from DOT is subject to the same restrictions on the use and possession of the copy of the photograph that apply to Wisconsin law enforcement agencies and law enforcement agencies of physically adjacent states.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.237 (1) (b) of the statutes is amended to read:

2 343.237 (1) (b) “Wisconsin “Local, state or federal law enforcement agency” has
3 the meaning given in s. 175.46 (1) (f) means a governmental unit of one or more
4 persons employed full time by the federal government, this state or a political
5 subdivision of this state for the purpose of preventing and detecting crime and
6 enforcing federal or state laws or local ordinances, employes of which unit are
7 authorized to make arrests for crimes while acting within the scope of their authority.

8 **SECTION 2.** 343.237 (3) (intro.) of the statutes is amended to read:

9 343.237 (3) (intro.) The department shall provide a Wisconsin local, state or
10 federal law enforcement agency with a copy of a photograph taken on or after
11 September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4) if the department
12 receives a written request on the Wisconsin local, state or federal law enforcement
13 agency’s letterhead that contains all of the following:

