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.

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

| the meaning given in s. 175.46 (1) (f) means a governmental unit of one or modeling persons employed full time by the federal government, this state or a politient subdivision of this state for the purpose of preventing and detecting crime a enforcing federal or state laws or local ordinances, employes of which unit a authorized to make arrests for crimes while acting within the scope of their authority authorized to make arrests for crimes while acting within the scope of their authority SECTION 2. 343.237 (3) (intro.) of the statutes is amended to read: 343.237 (3) (intro.) The department shall provide a Wisconsin local, state federal law enforcement agency with a copy of a photograph taken on or affin September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4) if the department | 1 | SECTION 1. 343.237 (1) (b) of the statutes is amended to read: |
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| 9 343.237 (3) (intro.) The department shall provide a Wisconsin local, state 10 <u>federal</u> law enforcement agency with a copy of a photograph taken on or aff 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 | 7 | authorized to make arrests for crimes while acting within the scope of their authority. |
| <u>federal</u> law enforcement agency with a copy of a photograph taken on or after September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4) if the department receives a written request on the Wisconsin <u>local</u> , <u>state</u> or <u>federal</u> law enforcement | 8 | SECTION 2. 343.237 (3) (intro.) of the statutes is amended to read: |
| 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 <u>local</u> , <u>state</u> or <u>federal</u> law enforcement | 9 | 343.237 (3) (intro.) The department shall provide a Wisconsin local, state or |
| 12 receives a written request on the Wisconsin <u>local, state or federal</u> law enforcement | 10 | federal law enforcement agency with a copy of a photograph taken on or after |
| 1 | 11 | September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4) if the department |
| agency's letterhead that contains all of the following: | 12 | receives a written request on the Wisconsin <u>local, state or federal</u> law enforcement |
| | 13 | agency's letterhead that contains all of the following: |

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| 1 | SECTION 3. 343.237 (3) (b) of the statutes is amended to read: |
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| 2 | 343.237 (3) (b) The name of the person making the request and the Wisconsin |
| 3 | local, state or federal law enforcement agency that employs the requester. |
| 4 | SECTION 4. 343.237 (3) (c) (intro.) of the statutes is amended to read: |
| 5 | 343.237 (3) (c) (intro.) A statement signed by a division commander or higher |
| 6 | authority within the Wisconsin <u>local, state or federal</u> law enforcement agency that |
| 7 | the photograph is requested for any of the following purposes: |
| 8 | SECTION 5. 343.237 (4) (intro.) of the statutes is amended to read: |
| 9 | 343.237 (4) (intro.) If a law enforcement agency of a physically adjacent state |
| 10 | makes a request meeting all the requirements specified for a request by a Wisconsin |
| 11 | local, state or federal law enforcement agency under sub. (3), the department shall |
| 12 | comply with the request if all of the following apply: |
| 13 | SECTION 6. 343.237 (4) (b) of the statutes is amended to read: |
| 14 | 343.237 (4) (b) The physically adjacent state allows <u>a</u> Wisconsin law |
| 15 | enforcement agencies <u>agency, as defined in s. 175.46 (1) (f),</u> similar or greater access |
| 16 | to similar information from that physically adjacent state. |
| 17 | SECTION 7. 343.237 (7) of the statutes is amended to read: |
| 18 | 343.237 (7) The department may not charge a fee for providing a copy of any |
| 19 | photograph <u>under this section</u> to a Wisconsin law enforcement agency under this |
| 20 | section, as defined in s. 175.46 (1) (f). |
| 21 | (END) |