

State of Wisconsin



1997 Assembly Bill 386

Date of enactment: April 16, 1998
Date of publication*: April 30, 1998

1997 WISCONSIN ACT 119

AN ACT to renumber 343.14 (3) (a); to renumber and amend 343.14 (3) (b); to amend 343.50 (8) (b); and to create 343.237 of the statutes; relating to: law enforcement agency access to photographs of applicants for operators' licenses and identification cards and providing a penalty.

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

SECTION 1. 343.14 (3) (a) of the statutes is renumbered 343.14 (3).

SECTION 2. 343.14 (3) (b) of the statutes is renumbered 343.237 (2) and amended to read:

343.237 (2) Any photograph taken of an applicant under ~~par. (a) or s. 343.14 (3) or~~ 343.50 (4) may be maintained by the department and, except as provided in this section, shall be kept confidential. The Except as provided in this section, the department may release a photograph only to the person whose photograph was taken.

SECTION 3. 343.237 of the statutes is created to read:

343.237 Access to license and identification card photographs. (1) In this section:

(a) "Law enforcement agency of a physically adjacent state" has the meaning given in s. 175.46 (1) (b).

(b) "Wisconsin law enforcement agency" has the meaning given in s. 175.46 (1) (f).

(3) The department shall provide a Wisconsin law enforcement agency with a copy of a photograph taken of an applicant under s. 343.14 (3) or 343.50 (4) if the department receives a written request on the Wisconsin law enforcement agency's letterhead that contains all of the following:

(a) The name of the person whose photograph is requested.

(b) The name of the person making the request and the Wisconsin law enforcement agency that employs the requester.

(c) A statement signed by a division commander or higher authority within the Wisconsin law enforcement agency that the photograph is requested for any of the following purposes:

1. An investigation of unlawful activity.
2. A missing person investigation.
3. The identification of an accident victim.
4. The identification of a deceased person.

(d) A statement that the request is not made solely to obtain a photograph for use as part of a photo lineup or photo array.

(4) If a law enforcement agency of a physically adjacent state makes a request meeting all the requirements specified for a request by a Wisconsin law enforcement agency under sub. (3), the department shall comply with the request if all of the following apply:

(a) The law enforcement agency of the physically adjacent state agrees to comply with all the requirements under this section.

* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(b) The physically adjacent state allows Wisconsin law enforcement agencies similar or greater access to similar information from that physically adjacent state.

(4m) The department shall attach to each copy of a photograph provided under this section the notation: "This photograph is subject to the requirements and restrictions of section 343.237 of the Wisconsin Statutes."

(5) Any law enforcement agency that has in its possession a copy of a photograph provided to it under sub. (3) or (4) shall destroy any copies of the photograph in its possession when the photograph is no longer necessary for the investigatory or identification purpose specified in its request for the copy of the photograph.

(6) For each copy of a photograph provided under sub. (3) or (4), the department shall record and maintain the written request for the copy of the photograph and may not disclose any record or other information concerning or relating to the written request to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, the applicant or identification card holder or, if the applicant or identification card holder is under 18 years of age, his or her parent or guardian.

(7) The department may not charge a fee for providing a copy of any photograph to a Wisconsin law enforcement agency under this section.

(8) (a) Any law enforcement agency that receives a photograph provided to a law enforcement agency under this section shall keep the copy of the photograph confidential and may disclose it only if disclosure is necessary to perform a law enforcement function and the person to whom the copy of the photograph is disclosed agrees to comply with par. (c).

(b) If a law enforcement agency discloses a copy of a photograph to another person under par. (a), the copy of the photograph shall have attached to it the notation specified in sub. (4m)

(c) Any person who receives a copy of a photograph from a law enforcement agency under par. (a) shall de-

stroy any copies of the photograph in his or her possession when the photograph is no longer necessary to perform the law enforcement function for which the photograph was disclosed.

(9) Not later than August 1, 1998, and annually thereafter until August 1, 2003, the department of transportation and the department of justice jointly shall submit a report to the chief clerk of each house of the legislature for distribution to the legislature under s. 13.172 (2) concerning the copies of photographs provided under this section, including the agencies to whom and the purposes for which the copies of the photographs were provided. The department of transportation and the department of justice shall consult with other interested persons when preparing a report under this subsection.

(10) Any person who wilfully discloses a copy of a photograph in violation of this section may be required to forfeit not more than \$500 for each violation. Each copy disclosed constitutes a separate offense.

(11) The department may not release a copy of a photograph under this section after December 31, 2002.

SECTION 4. 343.50 (8) (b) of the statutes is amended to read:

343.50 (8) (b) The department ~~shall~~ may not disclose any record or other information concerning or relating to an applicant or identification card holder to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency, the applicant or identification card holder or, if the applicant or identification card holder is under 18 years of age, his or her parent or guardian. Persons Except for photographs disclosed to a law enforcement agency under s. 343.237, persons entitled to receive any record or other information under this paragraph shall not disclose the record or other information to other persons or agencies.

SECTION 5. Initial applicability.

(1) This act first applies to photographs taken on January 1, 1998.