

State of Wisconsin



1997 Assembly Bill 419

Date of enactment: **April 13, 1998**
Date of publication*: **April 27, 1998**

1997 WISCONSIN ACT 88

AN ACT to repeal 15.257 (3) and 165.85 (4) (bn) 1. a.; to consolidate, renumber and amend 165.85 (4) (bn) 1. (intro.) and b.; to amend 165.85 (4) (b) 1., 165.85 (4) (cm) 2. (intro.) and b., 346.03 (6) and 346.17 (3); and to create 15.257 (3), 85.07 (3) (e), 85.07 (8), 165.85 (4) (bn) 1m., 165.85 (4) (cm) and 165.86 (1) (c) of the statutes; relating to: motor vehicle pursuit by law enforcement officers, training of law enforcement officers, requiring the exercise of rule-making authority and providing a penalty.

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

SECTION 1. 15.257 (3) of the statutes is created to read:

15.257 (3) LAW ENFORCEMENT PURSUIT STANDARDS COUNCIL. There is created in the department of justice a law enforcement pursuit standards council consisting of 7 persons appointed by the attorney general. Of the 7 members, 3 shall be representatives of law enforcement, 2 shall be citizen members not employed in law enforcement and one each shall be representatives of district attorneys and the judiciary.

SECTION 2. 15.257 (3) of the statutes, as created by 1997 Wisconsin Act (this act), is repealed.

SECTION 3. 85.07 (3) (e) of the statutes is created to read:

85.07 (3) (e) Current statistical information compiled from the information submitted under sub. (8) (b).

SECTION 4. 85.07 (8) of the statutes is created to read:

85.07 (8) POLICE PURSUIT INFORMATION. (a) In this subsection, "police pursuit" means an active attempt by a traffic officer in a police vehicle to apprehend one or more occupants of a moving motor vehicle, the operator of which is resisting apprehension by disregarding the of-

ficer's visual or audible signal to stop his or her vehicle, increasing the speed of the vehicle or extinguishing the lights of the vehicle.

(b) Not later than August 15 of each year, each law enforcement agency, as defined in s. 165.83 (1) (b), that uses police vehicles shall report to the department, on a form prescribed by the department, information on police pursuit engaged in during the preceding 12 months by law enforcement officers employed by that agency. The information shall include the circumstances of the police pursuit, including the distance, location and maximum speed of the pursuit; the reasons for commencing the police pursuit; and the outcome of the police pursuit, including the number if any of resulting deaths or great bodily injuries and an estimate of the value of any resulting property damage, if any. The department shall collect and maintain information submitted under this paragraph for not less than 10 years.

SECTION 5. 165.85 (4) (b) 1. of the statutes is amended to read:

165.85 (4) (b) 1. No person may be appointed as a law enforcement or tribal law enforcement officer, except on a temporary or probationary basis, unless the person has satisfactorily completed a preparatory program of law

* 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].

enforcement training approved by the board and has been certified by the board as being qualified to be a law enforcement or tribal law enforcement officer. The program shall include 400 hours of training, except the program for law enforcement officers who serve as rangers for the department of natural resources includes 240 hours of training. The board shall promulgate a rule under ch. 227 providing a specific curriculum for a 400-hour conventional program and a 240-hour ranger program. The rule shall ensure that there is an adequate amount of training for each program to enable the person to deal effectively with domestic abuse incidents. The training under this subdivision shall include training on emergency detention standards and procedures under s. 51.15, emergency protective placement standards and procedures under s. 55.06 (11) and information on mental health and developmental disabilities agencies and other resources that may be available to assist the officer in interpreting the emergency detention and emergency protective placement standards, making emergency detentions and emergency protective placements and locating appropriate facilities for the emergency detentions and emergency protective placements of persons. The training under this subdivision shall include training on police pursuit standards, guidelines and driving techniques established under par. (cm) 2. b. The period of temporary or probationary employment established at the time of initial employment shall not be extended by more than one year for an officer lacking the training qualifications required by the board. The total period during which a person may serve as a law enforcement and tribal law enforcement officer on a temporary or probationary basis without completing a preparatory program of law enforcement training approved by the board shall not exceed 2 years, except that the board shall permit part-time law enforcement and tribal law enforcement officers to serve on a temporary or probationary basis without completing a program of law enforcement training approved by the board to a period not exceeding 3 years. For purposes of this section, a part-time law enforcement or tribal law enforcement officer is a law enforcement or tribal law enforcement officer who routinely works not more than one-half the normal annual work hours of a full-time employe of the employing agency or unit of government. Law enforcement training programs including municipal, county and state programs meeting standards of the board are acceptable as meeting these training requirements.

SECTION 6. 165.85 (4) (bn) 1. (intro.) and b. of the statutes are consolidated, renumbered 165.85 (4) (bn) 1. and amended to read:

165.85 (4) (bn) 1. No person other than an officer elected by popular vote may continue as a law enforcement or tribal law enforcement officer, except on a temporary or probationary basis, unless that person completes annual recertification training. Any officer elected

by popular vote who is also a certified officer must complete annual recertification training to maintain certification. Any officer who is subject to this subdivision shall complete at least 24 hours each fiscal year beginning in the later of the following: ~~b.~~ The fiscal year following the fiscal year in which he or she complies with par. (b) 1.

SECTION 7. 165.85 (4) (bn) 1. a. of the statutes is repealed.

SECTION 8. 165.85 (4) (bn) 1m. of the statutes is created to read:

165.85 (4) (bn) 1m. Each officer who is subject to subd. 1. shall biennially complete at least 4 hours of training from curricula based upon model standards promulgated by the board under par. (cm) 2. b. Hours of training completed under this subdivision shall count toward the hours of training required under subd. 1.

SECTION 9. 165.85 (4) (cm) of the statutes is created to read:

165.85 (4) (cm) 1. In this paragraph, "police pursuit" has the meaning given in s. 85.07 (8) (a).

2. The board, in cooperation with the law enforcement pursuit standards council, shall promulgate rules that do all of the following:

a. Establish model standards that could be used by any law enforcement agency to determine whether to initiate or continue police pursuit, to establish police pursuit driving techniques employed by that agency and to inform its officers of its written guidelines provided under s. 346.03 (6). The board shall review and, if considered appropriate by the board, revise the model standards established under this subd. 2. a. not later than June 30 of each even-numbered year thereafter. The rules promulgated under this subd. 2. a. are advisory only, are not required to be included as a law enforcement training standard under this subsection and are inadmissible as evidence, except to show compliance with this subd. 2. a.

b. Notwithstanding sub. (3) (d), establish the preparatory program and annual recertification training curricula required under pars. (b) 1. and (bn) 1m., respectively, relating to police pursuit standards, guidelines and driving techniques. The advisory curriculum committee established under sub. (3) (d) shall advise the board in promulgating rules under this subd. 2. b.

SECTION 10. 165.85 (4) (cm) 2. (intro.) and b. of the statutes, as created by 1997 Wisconsin Act (this act), are amended to read:

165.85 (4) (cm) 2. (intro.) The board, ~~in cooperation with the law enforcement pursuit standards council,~~ shall promulgate rules that do all of the following:

b. ~~Notwithstanding sub. (3) (d), establish~~ Establish the preparatory program and annual recertification training curricula required under pars. (b) 1. and (bn) 1m., respectively, relating to police pursuit standards, guidelines and driving techniques. ~~The advisory curriculum~~

committee established under sub. (3) (d) shall advise the board in promulgating rules under this subd. 2. b.

SECTION 11. 165.86 (1) (c) of the statutes is created to read:

165.86 (1) (c) Identify state agencies and political subdivisions that employ law enforcement officers in the state and notify the appropriate officials of the model law enforcement pursuit standards established by the board under s. 165.85 (4) (cm) 2. a.

SECTION 12. 346.03 (6) of the statutes is amended to read:

346.03 (6) Every law enforcement agency ~~which that~~ uses authorized emergency vehicles shall provide written guidelines for its officers and employees regarding exceeding speed limits under the circumstances specified in sub. (4) and when otherwise in pursuit of actual or suspected violators. The guidelines shall consider, among other factors, road conditions, density of population, severity of crime and necessity of pursuit by vehicle. The guidelines are not subject to requirements for rules under ch. 227. Each law enforcement agency shall review its written guidelines by June 30 of each even-numbered year and, if considered appropriate by the law enforcement agency, shall revise those guidelines.

SECTION 13. 346.17 (3) of the statutes is amended to read:

346.17 (3) (a) Except as provided in par. (b), (c) or (d), any person violating s. 346.04 (3) shall be fined not less than ~~\$300~~ \$600 nor more than \$10,000 and may be imprisoned for not more than 2 years.

(b) If the violation results in bodily harm, as defined in s. 939.22 (4), to another, or causes damage to the property of another, as defined in s. 939.22 (28), the person shall be fined not less than ~~\$500~~ \$1,000 nor more than \$10,000 and may be imprisoned for not more than 2 years.

(c) If the violation results in great bodily harm, as defined in s. 939.22 (14), to another, the person shall be

fined not less than ~~\$600~~ \$1,100 nor more than \$10,000 and may be imprisoned for not more than 2 years.

(d) If the violation results in the death of another, the person shall be fined not less than ~~\$600~~ \$1,100 nor more than \$10,000 and may be imprisoned for not more than 5 years.

SECTION 14. Nonstatutory provisions.

(1) The law enforcement standards board shall submit proposed rules required under section 165.85 (4) (cm) 2. of the statutes, as created by this act, to the joint legislative council staff for review under section 227.15 (1) of the statutes no later than the first day of the 7th month beginning after the effective date of this subsection.

SECTION 15. Initial applicability.

(1) The treatment of section 165.85 (4) (b) 1. of the statutes first applies to preparatory programs of law enforcement training commenced on the first day of the 10th month beginning after the effective date of this subsection.

(2) The treatment of section 165.85 (4) (bn) 1m. of the statutes first applies to recertification programs commenced on July 1, 1998.

(3) The treatment of section 346.17 (3) of the statutes first applies to violations of section 346.04 (3) of the statutes that occur on the effective date of this subsection but does not preclude the counting of other violations as prior violations for sentencing a person or by the department of transportation in taking administrative action.

SECTION 16. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 85.07 (3) (e) and (8) of the statutes takes effect on the first day of the 4th month beginning after publication.

(2) The repeal of section 15.257 (3) of the statutes and the amendment of section 165.85 (4) (cm) 2. (intro.) and b. of the statutes take effect on June 30, 2001.