

1999 DRAFTING REQUEST

Bill

Received: **03/10/99**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Annette Polly Williams (608) 266-0960**

By/Representing: **Larry**

This file may be shown to any legislator: **NO**

Drafter: **olsenje**

May Contact:

Alt. Drafters: **nilsepe**

Subject: **Criminal Law - law enforcement
Transportation - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Police pursuit

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	olsenje 04/13/99	jgeller 04/14/99	martykr 04/14/99	_____	lrb_docadmin 04/14/99	lrb_docadmin 04/14/99	

FE Sent For:

<END>

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/P1	olsenje 04/5/99	ygeller 04/5/99	martykr 04/6/99	_____	lrb_docadmin 04/6/99		

1 4/4 yg *Jm 4/14*

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PA's Jacket "1/1" for Assm now

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1?	olsenje	RP 4/5/99	km 4/5	H/H 4/2 km 2	Yes		
			km 4/14	JA km 4/14			

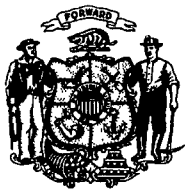
FE Sent For:

<END>

Williams by Lamy

(2466)

No hot pursuit by police unless
within 2 miles of police officer's
place of residence / home / dwelling etc.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2466/P1
JEO&PEN:.....

D Note

By 4/9

JLJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: motor vehicle pursuit by law enforcement officers.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement officer who is driving a police vehicle is exempt from certain traffic rules when he or she is responding to an emergency call or is in pursuit of an actual or suspected violator of the law. Specifically, the officer may do any of the following: 1) proceed past a red or stop signal or stop sign after slowing down as may be necessary for safe operation; 2) exceed the speed limit; and 3) disregard regulations governing the direction of traffic or turning in specified directions. These exemptions generally apply only when the officer is giving both a visible signal (a flashing, oscillating or rotating light) and an audible signal (a siren or exhaust whistle), although the officer may exceed the speed limit without giving the visible and audible signals if the officer is obtaining evidence of a speed violation or is responding to certain calls involving possible felony violations when the response requires stealth.

In addition to the general requirement to give visible and audible signals, current law requires the ~~Law Enforcement Standards Board~~ (LESB) to create model standards on police pursuit of suspected law violators. These standards must be included in the law enforcement officer training program that must be completed by persons seeking certification as a law enforcement officer. In addition, every law enforcement agency that uses authorized emergency vehicles must provide written guidelines for its officers regarding exceeding speed limits when in pursuit of actual or suspected violators, when obtaining evidence of a speed violation or when responding to calls involving possible felony violations. The guidelines, which may be based on the model standards created by LESB, must consider, among other

factors, road conditions, density of population, severity of crime and necessity of pursuit by vehicle.

This bill limits the area in which law enforcement officers may disregard traffic rules when driving police vehicles in pursuit of an actual or suspected violator of the law. Under the bill, a law enforcement officer driving a police vehicle in pursuit of an actual or suspected violator of the law may disregard traffic rules only within a radius of two miles of the officer's dwelling house or usual place of abode. The bill also requires that the standards and guidelines on police pursuit created by LESB or a law enforcement agency must take account of the geographic limits placed on police pursuit by the bill.

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

1 **SECTION 1.** 165.85 (4) (cm) 2. a. of the statutes is amended to read:

2 165.85 (4) (cm) 2. a. Establish model standards that could be used by any law
3 enforcement agency to determine whether to initiate or continue police pursuit, to
4 establish police pursuit driving techniques employed by that agency and to inform
5 its officers of its written guidelines provided under s. 346.03 (6). The standards shall
6 incorporate the restriction placed on police pursuit under s. 346.03 (4h). The board
7 shall review and, if considered appropriate by the board, revise the model standards
8 established under this subd. 2. a. not later than June 30 of each even-numbered year
9 thereafter. The rules promulgated under this subd. 2. a. are advisory only, are not
10 required to be included as a law enforcement training standard under this subsection
11 and are inadmissible as evidence, except to show compliance with this subd. 2. a.

History: 1973 c. 90, 333; 1975 c. 94 s. 91 (11); 1977 c. 29, 418; 1979 c. 111; 1981 c. 20, 1983 a. 27; 1985 a. 29, 260; 1987 a. 237, 366, 394; 1989 a. 31, 291; 1991 a. 39; 1993 a. 16, 167, 213, 399, 407, 460, 482, 491; 1995 a. 201, 225, 349; 1997 a. 27, 88, 191

12 **SECTION 2.** 165.85 (4) (cm) 2. b. of the statutes is amended to read:

13 165.85 (4) (cm) 2. b. Notwithstanding sub. (3) (d), establish the preparatory
14 program and annual recertification training curricula required under pars. (b) 1. and
15 (bn) 1m., respectively, relating to police pursuit standards, guidelines and driving
16 techniques. The program and curricula shall incorporate information concerning the

1 restriction placed on police pursuit under s. 346.03 (4h). The advisory curriculum
2 committee established under sub. (3) (d) shall advise the board in promulgating rules
3 under this subd. 2. b.

NOTE: NOTE: Subdpar. b. is amended eff. 6-30-01 by 1997 Wis. Act 88 to read:NOTE:

4 b. Establish the preparatory program and annual recertification training curricula required under pars. (b) 1. and (bn) 1m., respectively, relating to police pursuit
5 standards, guidelines and driving techniques.

6 SECTION 3. 165.85 (4) (cm) 2. b. of the statutes, as affected by 1997 Wisconsin
7 Act 88 and 1999 Wisconsin Act (this act), is repealed and recreated to read:

8 165.85 (4) (cm) 2. b. Establish the preparatory program and annual
9 recertification training curricula required under pars. (b) 1. and (bn) 1m.,
10 respectively, relating to police pursuit standards, guidelines and driving techniques.
11 The program and curricula shall incorporate information concerning the restriction
12 placed on police pursuit under s. 346.03 (4h).

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1993 a. 16, 167, 213, 399, 407, 460, 482, 491; 1995 a. 201, 225, 349; 1997 a. 27, 88, 191.

13 SECTION 4. 346.03 (3) of the statutes is amended to read:

14 346.03 (3) The exemption granted the operator of an authorized emergency
15 vehicle by sub. (2) (a) applies only when the operator of the vehicle is giving visual
16 signal by means of at least one flashing, oscillating or rotating red light except that
17 the visual signal given by a police vehicle may be by means of a blue light and a red
18 light which are flashing, oscillating or rotating, except as otherwise provided in sub.
19 (4m). The exemptions granted by sub. (2) (b), (c) and (d) are subject to sub. (4h) and
20 apply only when the operator of the emergency vehicle is giving both such visual
21 signal and also an audible signal by means of a siren or exhaust whistle, except as
22 otherwise provided in sub. (4) or (4m).

History: 1983 a. 56; 1985 a. 82, 143; 1987 a. 126; 1995 a. 36; 1997 a. 88.

23 SECTION 5. 346.03 (4) (intro.) of the statutes is amended to read:

1 346.03 (4) (intro.) Except as provided in sub. (4m) and subject to sub. (4h), a
2 law enforcement officer operating a police vehicle shall otherwise comply with the
3 requirements of sub. (3) relative to the giving of audible and visual signals but may
4 exceed the speed limit without giving audible and visual signal under the following
5 circumstances:

History: 1983 a. 56; 1985 a. 82, 143; 1987 a. 126; 1995 a. 36; 1997 a. 88.

6 **SECTION 6.** 346.03 (4h) of the statutes is created to read:

7 346.03 (4h) If a law enforcement officer operating a police vehicle is in pursuit
8 of an actual or suspected violator of the law, the exemptions granted by sub. (2) (b),
9 (c) and (d) [✓]apply only if the law enforcement officer is operating the police vehicle
10 within a radius of 2 miles of his or her dwelling house or usual place of abode.

11 **SECTION 7.** 346.03 (6) of the statutes is amended to read:

12 346.03 (6) Every law enforcement agency that uses authorized emergency
13 vehicles shall provide written guidelines for its officers and employees regarding
14 exceeding speed limits under the circumstances specified in ~~sub.~~ [✓]subs. (4) and (4h)
15 and when otherwise in pursuit of actual or suspected violators. The guidelines shall
16 consider, among other factors, road conditions, density of population, severity of
17 crime and necessity of pursuit by vehicle. The guidelines are not subject to
18 requirements for rules under ch. 227. Each law enforcement agency shall review its
19 written guidelines by June 30 of each even-numbered year and, if considered
20 appropriate by the law enforcement agency, shall revise those guidelines.

History: 1983 a. 56; 1985 a. 82, 143; 1987 a. 126; 1995 a. 36; 1997 a. 88.

21 **SECTION 8. Initial applicability.**

22 (1) This act first applies to the operation of police vehicles that occurs on the
23 effective date of this subsection. [✓]

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2466/P1dn

JEO&PEN:.....

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JLg

This draft does not amend s. 175.40 (2),[✓] stats., which allows an officer who is in “fresh pursuit” to follow a suspected violator anywhere in the state, or s. 976.04,[✓] stats., the uniform act on close pursuit, which allows officers from other states to pursue felons into this state. We left those statutes alone because the “fresh” or “close” pursuit covered by them is not necessarily the “hot” pursuit covered by the exemption from certain rules of the road under s. 346.03,[✓] stats. To the extent that “fresh” or “close” pursuit becomes “hot” pursuit, it will be governed by s. 346.03, stats.

Under the draft, a law enforcement officer who engages in “hot” pursuit outside the 2-mile radius of his or her home could be ticketed for any traffic violations that he or she commits during that “hot” pursuit. Should the draft also provide that if a police officer violates proposed s. 346.03 (4h)[✓] and thereby obtains any evidence of a criminal or civil offense, then the evidence may not be used against the driver in court?

Please let us know if you have any questions or changes.

Jefren E. Olsen
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E-mail: Jefren.Olsen@legis.state.wi.us

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926

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LEGISLATIVE REFERENCE BUREAU

LRB-2466/P1dn
JEO&PEN;jlg:km

April 5, 1999

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Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2466/71
JEO&PEN;jlg:km

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soon

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

Regen

1 AN ACT *to amend* 165.85 (4) (cm) 2. a., 165.85 (4) (cm) 2. b., 346.03 (3), 346.03 (4)
2 (intro.) and 346.03 (6); *to repeal and recreate* 165.85 (4) (cm) 2. b.; and *to*
3 *create* 346.03 (4h) of the statutes; **relating to:** motor vehicle pursuit by law
4 enforcement officers.

Analysis by the Legislative Reference Bureau

Under current law, a law enforcement officer who is driving a police vehicle is exempt from certain traffic rules when he or she is responding to an emergency call or is in pursuit of an actual or suspected violator of the law. Specifically, the officer may do any of the following: 1) proceed past a red or stop signal or stop sign after slowing down as may be necessary for safe operation; 2) exceed the speed limit; and 3) disregard regulations governing the direction of traffic or turning in specified directions. These exemptions generally apply only when the officer is giving both a visible signal (a flashing, oscillating or rotating light) and an audible signal (a siren or exhaust whistle), although the officer may exceed the speed limit without giving the visible and audible signals if the officer is obtaining evidence of a speed violation or is responding to certain calls involving possible felony violations when the response requires stealth.

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6 incorporate the restriction placed on police pursuit under s. 346.03 (4h). The board
7 shall review and, if considered appropriate by the board, revise the model standards
8 established under this subd. 2. a. not later than June 30 of each even-numbered year
9 thereafter. The rules promulgated under this subd. 2. a. are advisory only, are not
10 required to be included as a law enforcement training standard under this subsection
11 and are inadmissible as evidence, except to show compliance with this subd. 2. a.

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13 165.85 (4) (cm) 2. b. Notwithstanding sub. (3) (d), establish the preparatory
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16 requirements for rules under ch. 227. Each law enforcement agency shall review its
17 written guidelines by June 30 of each even-numbered year and, if considered
18 appropriate by the law enforcement agency, shall revise those guidelines.

19 **SECTION 8. Initial applicability.**

20 (1) This act first applies to the operation of police vehicles that occurs on the
21 effective date of this subsection.

22 **SECTION 9. Effective dates.** This act takes effect on the day after publication,
23 except as follows:

