

1999 DRAFTING REQUEST

Bill

Received: **01/14/2000**

Received By: **olsenje**

Wanted: **As time permits**

Identical to LRB:

For: **Leon Young (608)266-3786**

By/Representing: **Greg**

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

Drafter: **olsenje**

May Contact:

Ah. Drafters:

Subject: **Criminal Law - law enforcement**

Extra Copies: **MGD
PEN**

Pre Topic:

No specific pre topic given

Topic:

Collection of data from motor vehicle stops

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>Reouired</u>
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for Assembly

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1999 BILL

1 **AN ACT to amend** 165.85 (4) (b) 1.; and **to create** 165.842 of the, statutes;

2 **relating to:** collection of data concerning motor vehicle stops, law enforcement

3 training standards and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Collection of information concerning motor vehicle stops

Currently, a law enforcement agency must collect information concerning each person that the law enforcement agency arrests or takes into custody, if the person has committed certain offenses or is a fugitive from justice. The information that the law enforcement agency must collect includes the person's fingerprints, photographs of the person's face and profile and other available identifying data. The information collected must be forwarded to the department of justice (DOJ), which maintains the information for various law enforcement and reporting purposes

This bill requires a law enforcement agency to collect information concerning motor vehicle stops made on or after January 1, 2001. Some of the information that must be collected under the bill includes the following: 1) the reason for the motor vehicle stop; 2) the age, gender and race of the operator of the motor vehicle; 3) whether a search was conducted of the motor vehicle, the operator of the motor vehicle or any passenger in the motor vehicle; 4) if there was a search of a passenger in the motor vehicle, the age, gender and race of the passenger; 5) whether anything was seized as a result of any search; 6) whether the motor vehicle stop or a search conducted during the stop resulted in the operator or any passenger being given a written warning of or a citation for a violation of any law or ordinance and, if so, a

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listing of each warning or citation given and the alleged violation for which the warning or citation was given; and 7) whether the motor vehicle stop or a search conducted during the stop resulted in the arrest of the operator or any passenger and, if so, a listing of each arrest made and the reason for the arrest. DOJ may also require the collection of additional information.

The information that is collected under the bill concerning motor vehicle stops must be forwarded to DOJ, which must then compile and analyze the information, along with any other relevant information, to determine, both for the state as a whole and for each law enforcement agency, whether the number of stops and searches of motor vehicles operated or occupied by members of a racial minority are disproportionate compared to the number of stops and searches of motor vehicles operated or occupied solely by persons who are not members of a racial minority. The determination of whether the number of stops and searches involving racial minorities is disproportionate must be based on an estimate of the population and characteristics of all persons traveling on state highways, on an estimate of the populations and characteristics of persons traveling on state highways who are violating a law or ordinance, or on some other relevant population estimate. If DOJ finds that the number of stops and searches involving racial minorities is disproportionate compared to the number of stops and search involving nonminorities, DOJ must then determine whether that disproportion is the result of racial profiling, racial stereotyping or other race-based discrimination or selective enforcement.

DOJ must prepare an annual report that summarizes the information submitted to it by law enforcement agencies and that describes the methods and conclusions of its analysis of the information. DOJ must also promulgate rules to implement the information collection requirement created in the bill, including rules prescribing a form for use in obtaining the information and establishing a schedule for forwarding the information obtained to DOJ.

Law enforcement training standards

Under current law, no person may be appointed as a law enforcement officer unless the person has been certified by the law enforcement standards board (LESB) after completing a training program approved by LESB. Currently, LESB must establish minimum educational and training standards for law enforcement officers and minimum curriculum requirements for law enforcement officer training programs. Current law also contains specific requirements for law enforcement training programs, including the requirements that the programs provide training to enable officers to deal effectively with domestic abuse incidents and training on police pursuit standards.

This bill requires law enforcement training programs to provide training designed to prevent the use of race, racial profiling, racial stereotyping or other race-based discrimination or selection as a basis for detaining, searching or arresting a person or for otherwise treating a person differently from persons of other races.

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For further information see the state *and local* 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.** 165.842 of the statutes is created to read:

2 **165.842 Motor vehicle stops; collection and analysis of information;**
3 **annual report. (1) DEFINITIONS.** In this section:

4 (a) "Department" means the department of justice.

5 (b) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b).

6 (c) "Law enforcement officer" means a person who is employed by a law
7 enforcement agency for the purpose of detecting and preventing crime and enforcing
8 laws or ordinances and who is authorized to make arrests for violations of the laws
9 or ordinances that the person is employed to enforce, whether that enforcement
10 authority extends to all laws or ordinances or is limited to specific laws or ordinances.

11 (d) "Motor vehicle stop" means the stop or detention of a motor vehicle that is
12 traveling in any public or private place, or the detention of an occupied motor vehicle
13 that is already stopped in any public or private place, for the purpose of investigating
14 any alleged or suspected violation of a state or federal law or city, village, town or
15 county ordinance.

16 **(2) INFORMATION COLLECTION REQUIRED.** All persons in charge of law
17 enforcement agencies shall obtain, or cause to be obtained, all of the following
18 information with respect to each motor vehicle stop made on or after January 1, 2001,
19 by a law enforcement officer employed by the law enforcement agency:

20 (a) The reason that the law enforcement officer stopped or detained the motor
21 vehicle.

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1 (b) The age, gender and race of the operator of the motor vehicle.

2 (c) The number of persons in the motor vehicle.

3 (d) Whether a search was conducted of the motor vehicle, the operator of the
4 motor vehicle or any passenger in the motor vehicle, and for each search conducted
5 all of the following information:

6 1. Whether the search was based on probable cause or reasonable suspicion to
7 believe that an offense had been, was being or was about to be committed, or whether
8 the search was based on the consent of the person searched or, for a motor vehicle
9 search, on the consent of the operator or other authorized person.

10 2. If **the** search was of a passenger in the motor vehicle, the age, gender and race
11 of the passenger.

12 3. What, if anything, was seized as a result of the search.

13 (e) Whether any person who was asked to consent to a search of the motor
14 vehicle or of his or her person refused to consent.

15 (f) Whether the motor vehicle stop or a search conducted during the stop
16 resulted in the operator or any passenger being given a written warning of or a
17 citation for a violation of any law or ordinance and, if so, a listing of each warning
18 or citation given and the alleged violation for which the warning or citation was
19 given.

20 (g) Whether the motor vehicle stop or a search conducted during the stop
21 resulted in the arrest of the operator or any passenger and, if so, a listing of each
22 arrest made and the reason for the arrest.

23 (h) Anyother information required to be collected under the rules promulgated
24 by the department under sub. (5).

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1 (3) **SUBMISSION OF INFORMATION COLLECTED.** The person in charge of a law
2 enforcement agency shall forward the information obtained under sub. (2) to the
3 department using the form prescribed by the rules promulgated under sub. (5) and
4 in accordance with the reporting schedule established under the rules promulgated
5 under sub. (5).

6 (4) **ANALYSIS AND REPORT BY DEPARTMENT.** (a) The department shall compile the
7 information submitted to it by law enforcement agencies under sub. (3) and shall
8 analyze the information, along with any other relevant information, to determine,
9 both for the state as a whole and for each law enforcement agency, all of the following:

10 1. Whether the number of motor vehicle stops and searches of motor vehicles
11 operated or occupied by members of a racial minority compared to the number of
12 motor vehicle stops and searches of motor vehicles operated or occupied solely by
13 persons who are not members of a racial minority is disproportionate based on an
14 estimate of the population and characteristics of all persons traveling on state
15 highways, on an estimate of the populations and characteristics of persons traveling
16 on state highways who are violating a law or ordinance, or on some other relevant
17 population estimate.

18 2. A determination as to whether any disproportion found under subd. 1. is the
19 result of racial profiling, racial stereotyping or other race-based discrimination or
20 selective enforcement.

21 (b) For each year, the department shall prepare an annual report that
22 summarizes the information submitted to it by law enforcement agencies concerning
23 motor vehicle stops made during the year and that describes the methods and
24 conclusions of its analysis of the information. On or before March 31, 2002, and on
25 or before each March 31 thereafter, the department shall submit the annual report

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1 required under this paragraph to the legislature under s. 13.172 (2), to the governor
2 and to the director of state courts.

3 (5) **RULES.** (a) The department shall promulgate rules to implement the
4 requirements of this section, including rules prescribing a form for use in obtaining
5 information under sub. (2) and establishing a schedule for forwarding the
6 information obtained to the department. The department shall make the form
7 prescribed by its rules available to law enforcement agencies.

8 (b) The department may, by rule, require the collection of information in
9 addition to that specified in sub. (2) (a) to (g) if the department determines that the
10 information will help to make the determinations required under sub. (4) (a).

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

12 165.85 (4) (b) 1. No person may be appointed as a law enforcement or tribal law
13 enforcement officer, except on a temporary or probationary basis, unless the person
14 has satisfactorily completed a preparatory program of law enforcement training
15 approved by the board and has been certified by the board as being qualified to be
16 a law enforcement or tribal law enforcement officer. The program shall include 400
17 hours of training, except the program for law enforcement officers who serve as
18 rangers for the department of natural resources includes 240 hours of training. The
19 board shall promulgate a rule under ch. 227 providing a specific curriculum for a
20 400-hour conventional program and a 240-hour ranger program. The rule shall
21 ensure that there is an adequate amount of training for each program to enable the
22 person to deal effectively with domestic abuse incidents. The training under this
23 subdivision shall include training on emergency detention standards and procedures
24 under s. 51.15, emergency protective placement standards and procedures under s.
25 55.06 (11) and information on mental health and developmental disabilities agencies

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1 and other resources that may be available to assist the officer in interpreting the
2 emergency detention and emergency protective placement standards, making
3 emergency detentions and emergency protective placements and locating
4 appropriate facilities for the emergency detentions and emergency protective
5 placements of persons. The training under this subdivision shall include training
6 designed to prevent the use of race? racial profiling? racial stereotvnine or other
7 race-based discrimination or selection as a basis for detaining, searching or
8 arresting a person or for otherwise treating a nerson differently from nersons of other
9 races. The training under this subdivision shall include training on police pursuit
10 standards, guidelines and driving techniques established under par. (cm) 2. b. The
11 period of temporary or probationary employment established at the time of initial
12 employment shall not be extended by more than one year for an officer lacking the
13 training qualifications required by the board. The total period during which a person
14 may serve as a law enforcement and tribal law enforcement officer on a temporary
15 or probationary basis without completing a preparatory program of law enforcement
16 training approved by the board shall not exceed 2 years, except that the board shall
17 permit part-time law enforcement and tribal law enforcement officers to serve on a
18 temporary or probationary basis without completing a program of law enforcement
19 training approved by the board to a period not exceeding 3 years. For purposes of this
20 section, a part-time law enforcement or tribal law enforcement officer is a law
21 enforcement or tribal law enforcement officer who routinely works not more than
22 one-half the normal annual work hours of a full-time employe of the employing
23 agency or unit of government. Law enforcement training programs including

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1 municipal, county and state programs meeting standards of the board are acceptable
2 as meeting these training requirements.

3 (END)