

**1999 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB716)**

**Received: 03/14/2000**

Received By: **olsenje**

Wanted: **Soon**

Identical to **LRB:**

For: **Robert Goetsch (608) 266-2540**

By/Representing: **Kent**

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

Drafter: **olsenje**

May Contact:

**Alt. Drafters:**

Subject: **Crhninal Law - law enforcement**

Extra Copies: **MGD  
PEN**

**Pre Topic:**

No specific pre topic given

**Topic:**

Collection of data concerning motor vehicle stops; law enforcement training standards

**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>Reaured</u>
/?	olsenje 03/15/2000	gilfokm 03/15/2000		_____			
/1			hhagen 03/15/2000	_____	lrb-docadmin 03/15/2000	lrb-docadmin 03/15/2000	

FE Sent For:

<END>

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1/?	olsenje	1-3-15-2000 Kmg	hh 3/15	hh/kt 3/15			

FE Sent For:

<END>

On page 3, line 15, after that line insert the following:

(e) "Ethnic heritage" means the following:

- 1) African American, Black or Negro
- 2) American Indian or Alaskan Native
- 3) Asian, Asian Indian, Pacific Islander
- 4) Caucasian
- 5) Chinese
- 6) Filipino
- 7) Guamanian or Chamorro
- 8) Hispanic, Latino or Spanish
- 9) Japanese
- 10) Korean
- 11) Native Hawaiian
- 12) Samoan
- 13) Vietnamese

"African American" means ancestry originating in among the dark-skinned people of Africa.

"American Indian" means an ancestry stemming from enrollment as a member of a federally recognized American Indian tribe or band or documentation of at least one-fourth American Indian ancestry or documentation of tribal recognition as an American Indian.

"Asian" means ancestry originating among the people of Asia south and southeast of the Himalayas and west of Wallace's Line in the Malay Archipelago.

On page 4, line 1, delete "race" and substitute "ethnic heritage".

On page 4, line 10, delete "race" and substitute "ethnic heritage".

On page 5, line 11, delete "members of a racial minority" and insert "Caucasians".

On page 5, line 13, delete "members of a racial minority" and insert "Caucasians".

skin  
color

**On page 5, line 19-20,** delete those lines and substitute "result of profiling based on a person's ethnic heritage, race, or other discrimination based on the person's skin color or attributes related to stereotyping of the person's ethnic heritage, race or skin color."

**On page 6, line 6,** after the first "department" insert ". The form shall present a manner by which a law enforcement officer determined the ethnic heritage of any person for whom information is required to be collected under 165.842 (2)."

**On page 7, lines 5-9,** delete the underscored material and replace with "The training under this subdivision shall include training designed to prevent the use of profiling based on a person's ethnic heritage, race or skin color and to prevent the use stereotyping or discrimination based on a person's ethnic heritage, race or skin color as a basis for detaining, searching or arresting a person or for otherwise treating a person differently from persons of other ethnic heritage, races or skin color."

1999

Date (time) needed

Weds 3/15  
by 11:30 am

LRB s 0425 1 1

JED : [Signature]

**SUBSTITUTE AMENDMENT  
[TO A BILL]**

Use the appropriate components and **routines** developed for substitute amendments.

**S A SUBSTITUTE AMENDMENT**  
TO 1999 SB **AB** 716 (LRB- / )

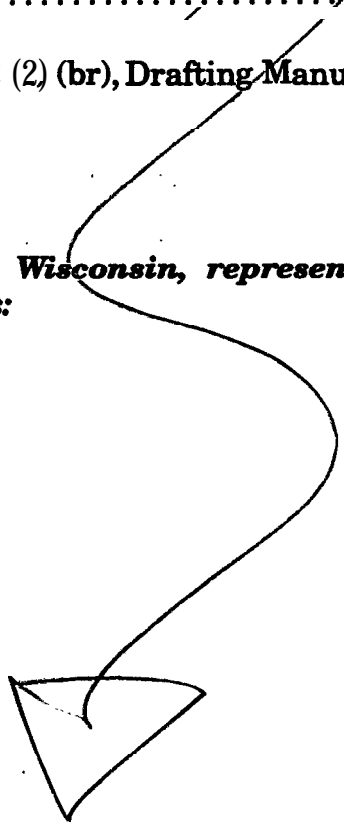
AN ACT . . . [generate catalog] to **repeal** . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and **amend** . . . ; to consolidate, renumber and amend . . . ; to **amend** . . . ; to **repeal** and recreate . . . ; and to create . . . of the statutes; relating to:

[Handwritten scribble and dotted lines]

[NOTE: See section 4.02 (2) (br), **Drafting Manual**, for specific order of standard phrases.]

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

SECTION #.





## 1999 ASSEMBLY BILL 716

February 3, 2000 - Introduced by Representatives YOUNG, TURNER, COLON, RILEY, MORRIS-TATUM, COGGS, WILLIAMS, BOCK, RICHARDS, WASSERMAN, BLACK, MILLER, POCAN, BERCEAU, SCHOOFF, BOYLE, RYBA and KLUSMAN, cosponsored by Senators MOORE, GEORGE and PLACHE. Referred to Committee on Criminal Justice.

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

**ASSEMBLY BILL 716**

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:

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3-3

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

INS  
3-4

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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ethnic heritage

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.

ethnic heritage

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).

**ASSEMBLY BILL 716**

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

19 2. A determination as to whether any disproportion found under subd. 1. is the  
20 result of ~~racial profiling, racial stereotyping or other race-based discrimination or~~  
~~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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5-19  
19  
20

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**ASSEMBLY BILL 716**

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.

INS  
6-6

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).

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

11  
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, stereotyping or~~

7) ~~any type of~~ discrimination as a basis for detaining, searching or

8) arresting a person or for otherwise treating a person differently from persons of other

9) ✓ or skin color ~~✓~~ ✓ races. The training under this subdivision shall include training on police pursuit

ethnic heritage

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

based on ethnic heritage, as defined in 5.  
165.842 (1) (e), race or skin color

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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)

1 **INSERT 3-3:** ✓

2 (a) "African American" means, with respect to an American citizen, ancestry  
3 originating among the dark-skinned people of Africa.

4 (b) "American Indian" means ancestry of at least one-fourth American Indian ✓  
5 or ancestry sufficient to gain the person enrollment as a member of a federally  
6 recognized American Indian tribe or band or tribal recognition as an American  
7 Indian.

8 (c) "Asian-Indian" means ancestry originating in India, Pakistan or  
9 Bangladesh.

10 **INSERT 3-4:** ✓

11 (e) "Ethnic heritage" means any of the following:

12 1. African American, Black or Negro.

13 2. American Indian.

14 3. Alaskan Native. ✓

15 4. Asian.

16 5. Asian-Indian.

17 6. Pacific Islander. ✓

1 8 7. Caucasian.

19 8. Chinese.

20 9. Filipino.

21 10. Guamanian or Chamorro.

22 11. Hispanic, Latino or Spanish.

23 12. Japanese.

1 13. Korean.

2 14. Native Hawaiian.

3 15. Samoan.

4 16. Vietnamese.

5 (f) "Hispanic" means ancestry originating in Spain, Mexico, Puerto Rico, Cuba,  
6 Central America or South America.

7 **INSERT 5-19:** ✓

8 <sup>no</sup> <sub>9</sub> result of profiling, stereotyping or discrimination based on ethnic heritage, race or  
9 skin color. ✓

10 **INSERT 6-6:** ✓

11 <sup>no</sup> <sub>9</sub> The form shall require the law enforcement officer completing the form to specify the  
12 manner by which the law enforcement officer determined the ethnic heritage of any  
13 person for whom that information is required to be collected under sub. (2). ✓