

**1999 DRAFTING REQUEST**

**Bill**

Received: **10/27/1999**

Received By: **olsenje**

Wanted: **Soon**

Identical to LRB:

For: **Gwendolynne Moore (608) 266-5810**

By/Representing: **Rob**

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

Drafter: **olsenje**

May Contact:

Alt. Drafters:

Subject: **Criminal Law - law enforcement**

Extra Copies: **MGD  
PEN**

**Pre Topic:**

No specific pre topic given

**Topic:**

Collection of information 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>Required</u>
/P1	olsenje 12/08/1999	gilfokm 12/08/1999	martykr 12/09/1999	_____	lrb_docadmin 12/09/1999		S&L
/1	olsenje 01/12/2000	gilfokm 01/12/2000	martykr 01/12/2000	_____	lrb_docadmin 01/12/2000	lrb_docadminS&L 01/27/2000	

FE Sent For:

<END>

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*1-1-2-2000  
kmj*

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*kmj*

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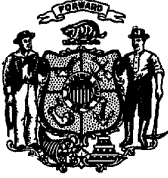
FE Sent For:

<END>

Rob — Sen Moore

Do racial profiling in  
budget as a bill — ready  
to introduce?

↓  
~~AB~~ change



State of Wisconsin *Due*  
1999 - 2000 LEGISLATURE

LRB-3826/P1

JEO: *King*

*D-Note*

*Thurs 12/9  
by 8:30 am*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1

AN ACT *gen. cat.*; relating to: collection of data concerning motor vehicle stops *and granting rule-making authority*

***Analysis by the Legislative Reference Bureau***

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, ~~and to forward the information collected to DOJ for analysis.~~ 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 or ethnicity 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 or ethnicity of the passenger; ~~4) whether anything was seized as a result of any search;~~ <sup>5) 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 listing of each warning or citation given and the alleged violation for which the warning or citation was given; and</sup> ~~4) 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 ~~motor vehicle~~ stops and searches of motor vehicles operated or occupied by members of a racial or ethnic minority are disproportionate compared to the number of ~~motor vehicle~~ stops and searches of motor vehicles operated or occupied solely by persons who are not members of a racial or ethnic minority. The determination of whether the number of stops and searches of racial or ethnic minorities is disproportionate must be based on an estimate of the population and characteristics of all persons travelling on state highways, on an estimate of the populations and characteristics of persons travelling 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 of racial or ethnic minorities is disproportionate compared to the number of stops and search of nonminorities, DOJ must then determine whether that disproportion is the result of racial or ethnic profiling, racial or ethnic stereotyping or other race-based or ethnicity-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.

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

1 or ordinances <sup>that</sup> the person is employed to enforce, whether that enforcement authority  
2 extends to all laws or ordinances or is limited to specific laws or ordinances.

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

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

12 (a) The reason <sup>that</sup> the law enforcement officer stopped or detained the motor  
13 vehicle.

14 (b) The age, gender and race or ethnicity of the operator of the motor vehicle.

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

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

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

23 2. If the search was of a passenger in the motor vehicle, the age, gender and race  
24 or ethnicity of the passenger.

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



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

3 (f) Whether the motor vehicle stop or a search conducted during the stop  
4 resulted in the operator or any passenger being given a written warning of or a  
5 citation for a violation of any law or ordinance and, if so, a listing of each warning  
6 or citation given and the alleged violation for which the warning or citation was  
7 given.

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

11 (h) Any other information required to be collected under the rules promulgated  
12 by the department under sub. (5).

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

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

22 1. Whether the number of motor vehicle stops and searches of motor vehicles  
23 operated or occupied by members of a racial or ethnic minority compared to the  
24 number of motor vehicle stops and searches of motor vehicles operated or occupied  
25 solely by person<sup>s</sup> who are not members of a racial or ethnic minority is

1 disproportionate based on an estimate of the population and characteristics of all  
2 persons travelling on state highways, on an estimate of the populations and  
3 characteristics of persons travelling on state highways who are violating a law or  
4 ordinance, or on some other relevant population estimate.

5 2. A determination as to whether any disproportion found under subd. 1. is the  
6 result of racial or ethnic profiling, racial or ethnic stereotyping or other race-based  
7 or ethnicity-based discrimination or selective enforcement.

8 (b) For each ~~calendar~~ year, the department shall prepare an annual report that  
9 summarizes the information submitted to it by law enforcement agencies concerning  
10 motor vehicle stops made during the ~~calendar~~ year and that describes the methods  
11 and conclusions of its analysis of the information. On or before March 31, 2002, and  
12 on or before each March 31 thereafter, the department shall submit the annual  
13 report required under this paragraph to the legislature under s. 13.172 (2), to the  
14 governor and to the director of state courts.

15 (5) RULES. <sup>check spacing</sup> (a) The department shall promulgate rules to implement the  
16 requirements of this section, including rules prescribing a form for use in obtaining  
17 information under sub. (2) and establishing a schedule for forwarding the  
18 information obtained to the department. The department shall make the form  
19 prescribed by its rules available to law enforcement agencies.

20 (b) The department may <sup>1</sup> <sup>1</sup> (by rule) require the collection of information in  
21 addition to that specified in sub. (2) (a) to (g) if the department determines that the  
22 information will help to make the determinations required under sub. (4) (a).

23 (END)

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

LRB-3826/P1dn

JEO:king

This draft is based on the provision that was vetoed out of the biennial budget act (1999 Wisconsin Act 9). I made a few minor changes in language for purposes of clarity. I also significantly revised proposed s. 165.842 (4) (a) to state more precisely what an analysis of the information collected should be looking for. Please review that language carefully to make sure that it does what you want it to do.

Jefren E. Olsen  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [Jefren.Olsen@legis.state.wi.us](mailto:Jefren.Olsen@legis.state.wi.us)

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

LRB-3826/P1dn  
JEO:kmg:km

December 9, 1999

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Phone: (608) 266-8906  
E-mail: [Jefren.Olsen@legis.state.wi.us](mailto:Jefren.Olsen@legis.state.wi.us)

1/10 Per Rob

✓(1) Add LESB curriculum requirement

✓(2) Eliminate "ethnicity" all  
~~and add body text~~



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3826/P1

JEO:kmg:km

Weds 1/12

r.m.v.

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

title: sub: sub 2

Collection of information concerning motor vehicle stops

law enforcement training standards

- 1 AN ACT to create 165.842 of the statutes; relating to: collection of data
- 2 concerning motor vehicle stops and granting rule-making authority.

**Analysis by the Legislative Reference Bureau**

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✓  
ANALYSIS  
INSERT

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- 7           enforcement agency for the purpose of detecting and preventing crime and enforcing

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24 2. If the search was of a passenger in the motor vehicle, the age, gender and race  
25 ~~of the passenger~~ of the passenger.



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

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3 vehicle or of his or her person refused to consent.

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4 characteristics of persons traveling on state highways who are violating a law or  
5 ordinance, or on some other relevant population estimate.

6 2. A determination as to whether any disproportion found under subd. 1. is the  
7 result of racial ~~profiling~~ profiling, racial ~~stereotyping~~ stereotyping or other race-based  
8 ~~ethnicity-based~~ discrimination or selective enforcement.

9 (b) For each year, the department shall prepare an annual report that  
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11 motor vehicle stops made during the year and that describes the methods and  
12 conclusions of its analysis of the information. On or before March 31, 2002, and on  
13 or before each March 31 thereafter, the department shall submit the annual report  
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15 and to the director of state courts.

16 (5) RULES. (a) The department shall promulgate rules to implement the  
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18 information under sub. (2) and establishing a schedule for forwarding the  
19 information obtained to the department. The department shall make the form  
20 prescribed by its rules available to law enforcement agencies.

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

INS  
5-23

24

(END)

BILL

ANALYSIS (INSERT, p. 1 of 2)

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 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 bill prohibits the collection of information that might be used to identify the law enforcement officer who makes the motor vehicle stop or the operator of or any passenger in the motor vehicle.

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 is 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.

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### ***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

**BILL**

*ANALYSIS INSERT, p. 2 of 2*

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.

***Restrictions on funding for law enforcement agencies that fail to collect motor vehicle stop information***

Current law provides various reimbursement and grant programs to local governments for purposes related to law enforcement. Specifically, under current law DOJ provides grants for county-tribal law enforcement programs, grants for law enforcement technology purchases, grants for community policing efforts in the city of Milwaukee and grants to cities for "weed and seed" projects aimed at certain high-crime neighborhoods. DOJ and LESB provide reimbursement to local governments for the costs incurred to send law enforcement officers to the training required for law enforcement officer certification. In addition, the office of justice assistance (OJA) in the department of administration provides grants to cities to employ additional uniformed law enforcement officers and grants to counties to fund county law enforcement services. Finally, the department of transportation (DOT) provides reimbursement to Milwaukee County for the costs incurred in policing expressways in the county.

This bill prohibits DOJ, LESB, OJA and DOT from making a grant, providing any grant moneys or providing any reimbursement under the programs specified above to a local government that has failed to collect information concerning motor vehicle stops or that has failed to forward information that it has collected to DOJ, as required under this bill. The bill also prohibits DOJ from encumbering funds under its general appropriation relating to law enforcement services if it fails to collect information concerning motor vehicle stops made by its employees or if it fails to submit the annual report concerning motor vehicle stops, as required under this bill.

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
- 2
- 3
- 4

SECTION 1. 16.964 (5) (em) of the statutes is created to read:

16.964 (5) (em) Notwithstanding pars. (a), (c) and (e), the office may not provide grants under this subsection or distribute moneys under a grant that the office has previously awarded under this subsection if the department of justice determines

BILL

INS 5-23, p. 1 of 2

SECTION 5

~~1 whichever is applicable. If the secretary determines that the department has not  
2 obtained any or all of the information required under sub. (2), that the department  
3 has not submitted the information as required under sub. (4) (b) or that the  
4 department has not submitted an annual report required under sub. (5) (b), the  
5 secretary shall notify the department of its determination and of the requirements  
6 of s. 20.455 (2) (a).~~

7 **SECTION 6.** 165.85 (4) (b) 1. of the statutes is amended to read:

8 165.85 (4) (b) 1. No person may be appointed as a law enforcement or tribal law  
9 enforcement officer, except on a temporary or probationary basis, unless the person  
10 has satisfactorily completed a preparatory program of law enforcement training  
11 approved by the board and has been certified by the board as being qualified to be  
12 a law enforcement or tribal law enforcement officer. The program shall include 400  
13 hours of training, except the program for law enforcement officers who serve as  
14 rangers for the department of natural resources includes 240 hours of training. The  
15 board shall promulgate a rule under ch. 227 providing a specific curriculum for a  
16 400-hour conventional program and a 240-hour ranger program. The rule shall  
17 ensure that there is an adequate amount of training for each program to enable the  
18 person to deal effectively with domestic abuse incidents. The training under this  
19 subdivision shall include training on emergency detention standards and procedures  
20 under s. 51.15, emergency protective placement standards and procedures under s.  
21 55.06(11) and information on mental health and developmental disabilities agencies  
22 and other resources that may be available to assist the officer in interpreting the  
23 emergency detention and emergency protective placement standards, making  
24 emergency detentions and emergency protective placements and locating  
25 appropriate facilities for the emergency detentions and emergency protective

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

22 ~~SECTION 7. 165.85 (5) (b) of the statutes is amended to read:~~

23 ~~165.85 (5) (b) The Except as provided in par. (bm), the board shall authorize~~  
24 ~~the reimbursement to each political subdivision of approved expenses incurred by~~  
25 ~~officers who satisfactorily complete training at schools certified by the board.~~

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 01/12/2000

To: Senator Moore

Relating to LRB drafting number: LRB-3826

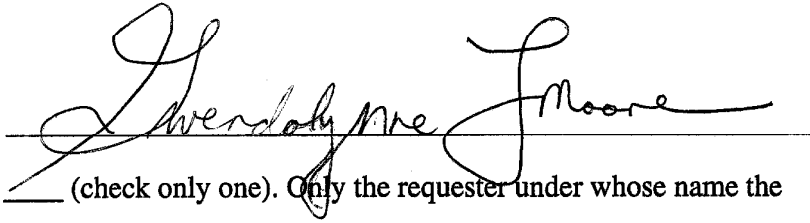
**Topic**

Collection of information from motor vehicle stops

**Subject(s)**

Criminal Law - law enforcement

1. JACKET the draft for introduction



in the Senate  or the Assembly  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. REDRAFT. See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain FISCAL ESTIMATE NOW, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jefren E. Olsen, Senior Attorney  
Telephone: (608) 266-8906