

2001 SENATE BILL 238

September 5, 2001 – Introduced by Senators MOORE, GEORGE, PLACHE, DECKER and RISSER, cosponsored by Representatives YOUNG, COLON, MORRIS-TATUM, TURNER, COGGS, WILLIAMS, RILEY, POCAN, BLACK, BOYLE, SCHOOFF, BERCEAU, CARPENTER, MILLER, RICHARDS, RYBA and WASSERMAN. Referred to Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform.

1 **AN ACT to amend** 165.85 (4) (b) 1.; and **to create** 85.07 (9) and 165.842 of the
2 statutes; **relating to:** collection of data concerning motor vehicle contacts, law
3 enforcement training standards, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Collection of information concerning motor vehicle contacts

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 law enforcement agencies to collect information concerning motor vehicle contacts made on or after January 1, 2002. Some of the information that must be collected under the bill includes the following: 1) the reason for the motor vehicle contact; 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; 5) whether anything was seized as a result of any search; 6) whether the motor vehicle contact or a search conducted during the contact resulted in the operator or any passenger being given a written or verbal warning of or a citation for

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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; 7) whether the motor vehicle contact or a search conducted during the contact 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; 8) the location of the motor vehicle contact, including the street address, if any; and 9) the date, time, and duration of the motor vehicle contact.

Each law enforcement agency must forward the information that it collects under the bill concerning motor vehicle contacts 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 contacts and searches of motor vehicles operated or occupied by members of a racial or ethnic minority are disproportionate compared to the number of contacts 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 contacts and searches involving racial or ethnic 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 contacts and searches involving racial or ethnic minorities is disproportionate compared to the number of contacts and searches involving 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.

Finally, DOJ is also required to forward annually a copy of the information collected under this bill concerning motor vehicle contacts to the department of transportation (DOT), which must then analyze the information, along with any other relevant information, to determine the effects and impact of motor vehicle contacts on highway safety and on state and local traffic law enforcement. DOT must also determine whether specific enforcement strategies or other activities may promote highway safety. DOT must prepare an annual report that summarizes its analysis of the information submitted to it by DOJ and that describes the methods and conclusions of its analysis of the information. Under current law, DOT is required to prepare a biennial report on various issues related to highway safety.

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

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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.

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.** 85.07 (9) of the statutes is created to read:
- 2 **85.07 (9)** HIGHWAY SAFETY AND MOTOR VEHICLE CONTACTS; ANALYSIS OF
3 INFORMATION; ANNUAL REPORT. (a) In this subsection, “motor vehicle contact” has the
4 meaning given in s. 165.842 (1) (d).
- 5 (b) Annually the department shall analyze the information forwarded to the
6 department under s. 165.842 (4) (c) by the department of justice concerning motor
7 vehicle contacts made during the previous year by law enforcement agencies to
8 determine, along with any other relevant information, all of the following:
- 9 1. The effects, if any, of motor vehicle contacts on state and local traffic law
10 enforcement.
- 11 2. Whether certain motor vehicle driving patterns and driver behavior have
12 contributed to the frequency of motor vehicle accidents, injuries, and death.
- 13 3. Specific enforcement strategies that may promote highway safety, including
14 the selection of specified areas for increased traffic law enforcement.

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1 4. Other activities that may promote highway safety, such as highway
2 redesigning, increased signage, and modifying any existing speed limits.

3 (c) For each year, the department shall prepare an annual report that
4 summarizes the analysis of the information under par. (b) and that describes the
5 methods and conclusions of its analysis of the information. On or before June 30,
6 2003, and on or before each June 30 thereafter, the department shall submit the
7 annual report required under this subsection to the legislature under s. 13.172 (2),
8 to the governor, and to the director of state courts.

9 **SECTION 2.** 165.842 of the statutes is created to read:

10 **165.842 Motor vehicle contacts; collection and analysis of information;**
11 **annual report. (1) DEFINITIONS.** In this section:

12 (a) “Department” means the department of justice.

13 (b) “Law enforcement agency” has the meaning given in s. 165.77 (1) (b).

14 (c) “Law enforcement officer” means a person who is employed by a law
15 enforcement agency for the purpose of detecting and preventing crime and enforcing
16 laws or ordinances and who is authorized to make arrests for violations of the laws
17 or ordinances that the person is employed to enforce, whether that enforcement
18 authority extends to all laws or ordinances or is limited to specific laws or ordinances.

19 (d) “Motor vehicle contact” means any of the following:

20 1. The provision of assistance to the operator of or the passengers in a motor
21 vehicle that is already stopped in any public or private place.

22 2. Contact with an operator of or passengers in a motor vehicle involved in an
23 traffic accident.

24 3. The stop or detention of a motor vehicle that is traveling in any public or
25 private place, or the detention of an occupied motor vehicle that is already stopped

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1 in any public or private place, for the purpose of investigating any alleged or
2 suspected violation of a state or federal law or city, village, town, or county ordinance.

3 **(2) INFORMATION COLLECTION REQUIRED.** All persons in charge of law
4 enforcement agencies shall obtain, or cause to be obtained, all of the following
5 information with respect to each motor vehicle contact made on or after January 1,
6 2002, by a law enforcement officer employed by the law enforcement agency:

7 (a) The reason for the motor vehicle contact.

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

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

10 (d) Whether a search was conducted of the motor vehicle, its operator, or any
11 passenger, and for each search conducted all of the following information:

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

16 2. If the search was of a passenger, the age, gender, and race or ethnicity of the
17 passenger.

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

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

21 (f) Whether the motor vehicle contact or a search conducted during the contact
22 resulted in the operator or any passenger being given a written or verbal warning
23 of or a citation for a violation of any law or ordinance and, if so, a listing of each
24 warning or citation given and the alleged violation for which the warning or citation
25 was given.

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1 (g) Whether the motor vehicle contact or a search conducted during the contact
2 resulted in the arrest of the operator or any passenger and, if so, a listing of each
3 arrest made and the reason for the arrest.

4 (h) The location of the motor vehicle contact, including the street address, if
5 any.

6 (i) The date, time, and duration of the motor vehicle contact.

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

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

16 1. Whether the number of motor vehicle contacts and searches conducted
17 during such contacts involving motor vehicles operated or occupied by members of
18 a racial or ethnic minority compared to the number of motor vehicle contacts and
19 searches conducted during such contacts involving motor vehicles operated or
20 occupied solely by persons who are not members of a racial or ethnic minority is
21 disproportionate based on an estimate of the population and characteristics of all
22 persons traveling on state highways, on an estimate of the populations and
23 characteristics of persons traveling on state highways who are violating a law or
24 ordinance, or on some other relevant population estimate.

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

4 (b) For each year, the department shall prepare an annual report that
5 summarizes the information submitted to it by law enforcement agencies concerning
6 motor vehicle contacts made during the year and that describes the methods and
7 conclusions of its analysis of the information. On or before March 31, 2003, and on
8 or before each March 31 thereafter, the department shall submit the annual report
9 required under this paragraph to the legislature under s. 13.172 (2), to the governor,
10 and to the director of state courts.

11 (c) On or before March 31, 2003, and on or before each March 31 thereafter, the
12 department shall forward a copy to the department of transportation of the
13 compilation under par. (a) of information submitted to the department of justice by
14 law enforcement agencies under sub. (3) concerning motor vehicle contacts made
15 during the previous year.

16 **(5) RULES.** The department shall promulgate rules to implement the
17 requirements of this section, including rules specifying the type of assistance
18 constituting a motor vehicle contact under sub. (1) (d) 1., prescribing a form for use
19 in obtaining information under sub. (2), and establishing a schedule for forwarding
20 the information obtained to the department. The department shall make the form
21 prescribed by its rules available to law enforcement agencies.

22 **SECTION 3.** 165.85 (4) (b) 1. of the statutes is amended to read:

23 165.85 **(4)** (b) 1. No person may be appointed as a law enforcement or tribal law
24 enforcement officer, except on a temporary or probationary basis, unless the person
25 has satisfactorily completed a preparatory program of law enforcement training

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1 approved by the board and has been certified by the board as being qualified to be
2 a law enforcement or tribal law enforcement officer. The program shall include 400
3 hours of training, except the program for law enforcement officers who serve as
4 rangers for the department of natural resources includes 240 hours of training. The
5 board shall promulgate a rule under ch. 227 providing a specific curriculum for a
6 400-hour conventional program and a 240-hour ranger program. The rule shall
7 ensure that there is an adequate amount of training for each program to enable the
8 person to deal effectively with domestic abuse incidents. The training under this
9 subdivision shall include training on emergency detention standards and procedures
10 under s. 51.15, emergency protective placement standards and procedures under s.
11 55.06 (11) and information on mental health and developmental disabilities agencies
12 and other resources that may be available to assist the officer in interpreting the
13 emergency detention and emergency protective placement standards, making
14 emergency detentions and emergency protective placements and locating
15 appropriate facilities for the emergency detentions and emergency protective
16 placements of persons. The training under this subdivision shall include training
17 designed to prevent the use of race or ethnicity, racial or ethnic profiling, racial or
18 ethnic stereotyping, or other race-based or ethnicity-based discrimination or
19 selection as a basis for detaining, searching, or arresting a person or for otherwise
20 treating a person differently from persons of other races or ethnic backgrounds. The
21 training under this subdivision shall include training on police pursuit standards,
22 guidelines and driving techniques established under par. (cm) 2. b. The period of
23 temporary or probationary employment established at the time of initial
24 employment shall not be extended by more than one year for an officer lacking the
25 training qualifications required by the board. The total period during which a person

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1 may serve as a law enforcement and tribal law enforcement officer on a temporary
2 or probationary basis without completing a preparatory program of law enforcement
3 training approved by the board shall not exceed 2 years, except that the board shall
4 permit part-time law enforcement and tribal law enforcement officers to serve on a
5 temporary or probationary basis without completing a program of law enforcement
6 training approved by the board to a period not exceeding 3 years. For purposes of this
7 section, a part-time law enforcement or tribal law enforcement officer is a law
8 enforcement or tribal law enforcement officer who routinely works not more than
9 one-half the normal annual work hours of a full-time employee of the employing
10 agency or unit of government. Law enforcement training programs including
11 municipal, county and state programs meeting standards of the board are acceptable
12 as meeting these training requirements.

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(END)