



2003 SENATE BILL 33

February 12, 2003 - Introduced by Senators S. FITZGERALD, KANAVAS, A. LASEE, REYNOLDS, ROESSLER, SCHULTZ, STEPP and KEDZIE, cosponsored by Representatives WIECKERT, FRISKE, BIES, J. FITZGERALD, GUNDERSON, GUNDRUM, HAHN, HINES, HUNDERTMARK, KRAWCZYK, LADWIG, F. LASEE, M. LEHMAN, MCCORMICK, OTT, PETROWSKI, STONE, TOWNS, VAN ROY, VRAKAS and TOWNSEND. Referred to Committee on Transportation and Information Infrastructure.

1 **AN ACT to renumber and amend** 343.237 (1) (a); **to amend** 343.237 (3) (intro.),
2 343.237 (3) (b), 343.237 (3) (c) (intro.), 343.237 (4) (intro.), 343.237 (4) (a) and
3 343.237 (4) (b); and **to create** 343.237 (1) (ag) of the statutes; **relating to:**
4 access by law enforcement agencies to photographs on motor vehicle operators
5 licenses and identification cards.

Analysis by the Legislative Reference Bureau

With limited exceptions, current law requires the Department of Transportation (DOT) to take a photograph of all applicants for an operator's license or identification card. DOT may keep copies of the photographs for its own use but generally must keep the photographs confidential. However, DOT may release a photograph to the individual whose photograph was taken. In addition, DOT may, under certain circumstances, release a copy of a photograph taken on or after September 1, 1997, to a Wisconsin law enforcement agency or to a law enforcement agency of a physically adjacent state. Beginning on January 1, 2003, DOT may not release photographs to any person other than the subject of the photograph.

DOT may release a copy of a photograph to a Wisconsin law enforcement agency only if the agency submits a written request specifying the name of the person whose photograph is requested and stating that the photograph is requested for the purpose of investigating unlawful activity, looking for a missing person, or identifying an accident victim or a deceased person. DOT may provide a copy of the photograph to a law enforcement agency of a physically adjacent state if the agency makes a written

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request in the same manner as a Wisconsin law enforcement agency and if the physically adjacent state provides Wisconsin law enforcement agencies with access to similar information.

If a law enforcement agency receives a copy of a photograph from DOT, the agency must keep the copy of the photograph confidential and may disclose it only if necessary to perform a law enforcement function. When the copy of the photograph is no longer necessary for the investigatory or identification purpose specified in the request for a copy of the photograph, the law enforcement agency must destroy any copies of the photograph in its possession.

This bill allows DOT to release a copy of a photograph to any state or federal law enforcement agency if the law enforcement agency makes a written request in the same manner as a Wisconsin law enforcement agency. The same restrictions regarding the use and possession of a released photograph that apply to Wisconsin law enforcement agencies also apply to the other state's law enforcement agency and the federal law enforcement agency requesting a photograph from DOT.

For further information see the *state* 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.** 343.237 (1) (a) of the statutes is renumbered 343.237 (1) (ar) and
2 amended to read:

3 343.237 (1) (ar) “Law enforcement agency of ~~a physically adjacent~~ another
4 state” has the meaning given in s. 175.46 (1) (b) means a governmental unit of one
5 or more persons employed by a state other than this state or by a political subdivision
6 of a state other than this state for the purpose of preventing and detecting crime and
7 enforcing laws or ordinances of that state or a political subdivision of that state,
8 employees of which unit are authorized to make arrests for crimes while acting
9 within the scope of their authority.

10 **SECTION 2.** 343.237 (1) (ag) of the statutes is created to read:

11 343.237 (1) (ag) “Federal law enforcement agency” means a governmental unit
12 of one or more persons employed by the federal government for the purpose of
13 preventing and detecting crime and enforcing federal laws, employees of which unit

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1 are authorized to make arrests for crimes while acting within the scope of their
2 authority.

3 **SECTION 3.** 343.237 (3) (intro.) of the statutes is amended to read:

4 343.237 (3) (intro.) The department shall provide a Wisconsin law enforcement
5 agency or a federal law enforcement agency with a copy of a photograph taken on or
6 after September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4) if the
7 department receives a written request on the ~~Wisconsin~~ law enforcement agency's
8 letterhead that contains all of the following:

9 **SECTION 4.** 343.237 (3) (b) of the statutes is amended to read:

10 343.237 (3) (b) The name of the person making the request and the ~~Wisconsin~~
11 law enforcement agency that employs the requester.

12 **SECTION 5.** 343.237 (3) (c) (intro.) of the statutes is amended to read:

13 343.237 (3) (c) (intro.) A statement signed by a division commander or higher
14 authority within the ~~Wisconsin~~ law enforcement agency that the photograph is
15 requested for any of the following purposes:

16 **SECTION 6.** 343.237 (3) (d) of the statutes is repealed.

17 **SECTION 7.** 343.237 (4) (intro.) of the statutes is amended to read:

18 343.237 (4) (intro.) If a law enforcement agency of ~~a physically adjacent~~
19 another state makes a request meeting all of the requirements specified for a request
20 by a Wisconsin law enforcement agency or a federal law enforcement agency under
21 sub. (3), the department shall comply with the request if all of the following apply:

22 **SECTION 8.** 343.237 (4) (a) of the statutes is amended to read:

23 343.237 (4) (a) The law enforcement agency of the ~~physically adjacent~~ other
24 state agrees to comply with all of the requirements under this section.

25 **SECTION 9.** 343.237 (4) (b) of the statutes is amended to read:

