

2005 ASSEMBLY BILL 216

March 16, 2005 – Introduced by Representatives BIES, BERCEAU, COLON, GRIGSBY, HINES, LEHMAN, MOLEPSKE, POCAN and VAN ROY. Referred to Committee on Corrections and the Courts.

1 **AN ACT to create** 165.842 and 165.85 (4) (b) 1d. f. of the statutes; **relating to:**
2 collection of data concerning motor vehicle stops, law enforcement training
3 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 the following information concerning motor vehicle stops made on or after January 1, 2007: 1) the name, address, sex, and race of the operator and each occupant of the motor vehicle (with the officer subjectively determining race as being Caucasian, African American, Hispanic, American Indian or Alaska Native, or Asian or Pacific Islander); 2) the reason for the motor vehicle stop; 3) the make, model, and year of the motor vehicle; 4) the date, time, and location of the motor vehicle stop; 5) whether or not a law enforcement officer conducted a search of the motor vehicle, the operator, or any occupant and, if so, whether the search was with consent or by other means; and 6) the name and badge number of the officer making the motor vehicle stop.

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The information that is collected under the bill concerning motor vehicle stops is not subject to inspection or copying as a public record. The information, however, must be forwarded to DOJ, which must then compile and analyze it, 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 involving motor vehicles operated or occupied by members of a racial minority is disproportionate compared to the number of stops and searches involving 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, and on any 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 searches 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 concerning cultural diversity, including sensitivity toward racial and ethnic differences. The training must be 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 and must emphasize the fact that the primary purposes of enforcement of traffic regulations are safety and equal and uniform application of the law.

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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, 2007,
19 by a law enforcement officer employed by the law enforcement agency:

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1 (a) The name, address, sex, and race of the operator of the motor vehicle, as well
2 as any other occupants of the motor vehicle. The law enforcement officer shall
3 subjectively select the race of the operator and each occupant from the following list:

- 4 1. Caucasian.
- 5 2. African American.
- 6 3. Hispanic.
- 7 4. American Indian or Alaska Native.
- 8 5. Asian or Pacific Islander.

9 (b) The reason that the law enforcement officer stopped or detained the motor
10 vehicle.

11 (c) The make, model, and year of the motor vehicle.

12 (d) The date, time, and location of the motor vehicle stop.

13 (e) Whether or not a law enforcement officer conducted a search of the motor
14 vehicle, the operator, or any other occupant and, if so, whether the search was with
15 consent or by other means.

16 (f) The name and badge number of the law enforcement officer making the
17 motor vehicle stop.

18 **(3) SUBMISSION OF INFORMATION COLLECTED.** The person in charge of a law
19 enforcement agency shall report the information obtained under sub. (2) to the
20 department using the form prescribed in the rules promulgated under sub. (5) and
21 in accordance with the reporting schedule established under the rules promulgated
22 under sub. (5).

23 **(4) ANALYSIS AND REPORT BY DEPARTMENT.** (a) The department shall compile the
24 information submitted to it by law enforcement agencies under sub. (3) and shall

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1 analyze the information, along with any other relevant information, to determine,
2 both for the state as a whole and for each law enforcement agency, all of the following:

3 1. Whether the number of motor vehicle stops and searches involving motor
4 vehicles operated or occupied by members of a racial minority compared to the
5 number of motor vehicle stops and searches involving motor vehicles operated or
6 occupied solely by persons who are not members of a racial minority is
7 disproportionate based on an estimate of the population and characteristics of all
8 persons traveling on state highways, on an estimate of the populations and
9 characteristics of persons traveling on state highways who are violating a law or
10 ordinance, and on any other relevant population estimate, as determined by the
11 department.

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

15 (b) For each year, the department shall prepare an annual report that
16 summarizes the information submitted to it by law enforcement agencies concerning
17 motor vehicle stops made during the year and that describes the methods and
18 conclusions of its analysis of the information. On or before March 31, 2008, and on
19 or before each March 31 thereafter, the department shall submit the annual report
20 required under this paragraph to the legislature under s. 13.172 (2), to the governor,
21 and to the director of state courts.

22 **(5) RULES.** The department shall promulgate rules to implement the
23 requirements of this section, including rules establishing a schedule for, and
24 prescribing a form for use in, reporting information to the department under sub. (3).
25 The department shall make the form prescribed by its rules available to law

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1 enforcement agencies. The department may, by rule, require the collection of
2 information in addition to that specified in sub. (2) (a) to (f) if the department
3 determines that the information will help to make the determinations required
4 under sub. (4) (a).

5 **(6) ACCESS TO RECORDS.** Information collected under sub. (2) is not subject to
6 inspection or copying under s. 19.35 (1).

7 **SECTION 2.** 165.85 (4) (b) 1d. f. of the statutes is created to read:

8 165.85 **(4)** (b) 1d. f. Training concerning cultural diversity, including sensitivity
9 toward racial and ethnic differences. The training shall be designed to prevent the
10 use of race, racial profiling, racial stereotyping, or other race-based discrimination
11 or selection as a basis for detaining, searching, or arresting a person or for otherwise
12 treating a person differently from persons of other races and shall emphasize the fact
13 that the primary purposes of enforcement of traffic regulations are safety and equal
14 and uniform application of the law.

15 **(END)**