

2005 DRAFTING REQUEST

Bill

Received: 01/11/2005

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Garey Bies (608) 266-5350**

By/Representing: **andrew**

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

Drafter: **chanaman**

May Contact:

Adl. Drafters:

Subject: **Criminal Law - law enforcement**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Bies@legis.state.wi.us**

Carbon copy (CC:) to: **robin.ryan@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Racial profiling

Instructions:

See Attached--2003 -4443/1

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>
/?	chanaman 01/11/2005	csicilia 02/07/2005		_____			S&L
/1			pgreensl 02/07/2005	_____	sbasford 02/07/2005	mbarman 02/17/2005	

FE Sent For:

<END>

↳ At Intro.

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/?	chanaman	1 9/5 2/6 05	PH	PH			

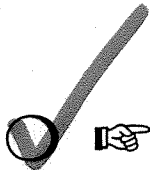
FE Sent For:

<END>

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: CMH) (Date: 01/11/2005)

 Please transfer the drafting file for

2003 LRB -4443 to the drafting file

for 2005 LRB -1637

*fed law
re
retired*

The final version of the 2003 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2003 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2003 draft was incorporated into a 2005 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the 2005 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

--- OR ---

Please copy the drafting file for

2005 LRB _____ / _____ (include the version) and place it in the

drafting file for 2005 LRB _____

For research purposes, because the original 2005 draft was incorporated into another 2005 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the new 2005 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then be returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

-1637/1

2005
2/9
2003 BILL

jis

Refer list

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, 2005: 1) the name, address, gender, and race of the operator of the motor vehicle (with the officer subjectively determining the person's 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 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 passenger and, if so, whether the search was with consent or by other means; 6) the name, address, gender, and race of any person searched; and 7) the name and badge number of the officer making the motor vehicle stop.

sex

7

2/3

and each occupant

model,

occupant

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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 ~~are~~ ^{and any} 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, ~~or on some~~ ^{is} 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

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application of
purposes of enforcement of traffic regulations are safety and equal and uniform
enforcement under the law.

S/L
KZ

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, 2005, ✓
19 by a law enforcement officer employed by the law enforcement agency: ✓

20 (a) The name, address, ^{SEX}gender, and race of the operator of the motor vehicle

21 The officer shall subjectively select the operator's race from the following list:

law enforcement

race of the operator and each occupant

as well as any other occupants of the motor vehicle

BILL

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

6 (b) The reason ~~that~~ the ^{law enforcement} officer stopped or detained the motor vehicle.

7 (c) The make ^{model} and year of the motor vehicle.

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

9 (e) Whether or not a law enforcement officer conducted a search of the motor
10 vehicle, the operator, or any ^{other occupant} passenger and, if so, whether the search was with
11 consent or by other means.

12 (f) The name, address, ^{sex} gender, and race of any person searched, with the officer
13 subjectively selecting the person's race from the list under par. (a). ^{law enforcement}

14 (g) The name and badge number of the ^{law enforcement} officer making the motor vehicle stop. ✓

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

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

- 24 1. Whether the number of motor vehicle stops and searches involving motor
25 vehicles operated or occupied by members of a racial minority compared to the

BILL

1 number of motor vehicle stops and searches involving motor vehicles operated or
 2 occupied solely by persons who are not members of a racial minority is
 3 disproportionate based on an estimate of the population and characteristics of all
 4 persons traveling on state highways, on an estimate of the populations and
 5 characteristics of persons traveling on state highways who are violating a law or
 6 ordinance, ~~or on some~~ ^{and on any} other relevant population estimate. ^{as determined} ^{by the} ^{department}

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

10 (b) For each year, the department shall prepare an annual report that
 11 summarizes the information submitted to it by law enforcement agencies concerning
 12 motor vehicle stops made during the year and that describes the methods and
 13 conclusions of its analysis of the information. On or before March 31, 2006, ⁸ and on
 14 or before each March 31 thereafter, the department shall submit the annual report
 15 required under this paragraph to the legislature under s. 13.172 (2), to the governor,
 16 and to the director of state courts. ✓

17 (5) RULES. The department shall promulgate rules to implement the
 18 requirements of this section, including rules ^{and} prescribing a form for use in ^{reporting} obtaining
 19 information under sub. (2) ³ and establishing a schedule for ³ forwarding the
 20 information obtained to the department. The department shall make the form
 21 prescribed by its rules available to law enforcement agencies. The department may,
 22 by rule, require the collection of information in addition to that specified in sub. (2)
 23 (a) to (g) if the department determines that the information will help to make the
 24 determinations required under sub. (4) (a). ✓

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

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

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

11 (END)

9
application of

Northrop, Lori

From: Nowlan, Andrew
Sent: Thursday, February 17, 2005 10:46 AM
To: LRB.Legal
Subject: Draft review: LRB 05-1637/1 Topic: Racial profiling

It has been requested by <Nowlan, Andrew> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1637/1 Topic: Racial profiling