



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 01/11/2005 (Per: CMH)



☞ The 2003 drafting file for LRB 03-4443

has been transferred to the drafting file for

2005 LRB 05-1637

☞ This cover sheet, the final request sheet, and the final version of the 2003 draft were copied on yellow paper, and returned to the original 2003 drafting file.

☞ The attached 2003 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2003 DRAFTING REQUEST

Bill

Received: **03/05/2004**

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:

Addl. Drafters: **mdsida**

Subject: **Criminal Law - law enforcement
Transportation - traffic laws**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Racial profiling

Instructions:

See Attached--identical to s0382/2

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>
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/1			jfrantze 03/05/2004	_____	mbarman 03/05/2004	Inorthro 03/08/2004	

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/?	chanaman 03/05/2004	kgilfoy 03/05/2004		_____			
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per
Andrew
at
Bies
office*

03/05/2004 02:49:05 PM

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Page 1

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FE Sent For:

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TODAY

ASSEMBLY SUBSTITUTE AMENDMENT ,
TO 2003 ASSEMBLY BILL 90

only changes are in analysis

repeal

- 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.

✓
bill

~~This substitute amendment~~ 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.

The information that is collected under the ~~substitute amendment~~ ^{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 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 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.

^{bill} 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 ~~substitute amendment~~, 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 ~~substitute amendment~~ ^{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 enforcement under the law.

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, gender, and race of the operator of the motor vehicle.

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

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 officer stopped or detained the motor vehicle.

7 (c) The make 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 passenger and, if so, whether the search was with
11 consent or by other means.

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

14 (g) The name and badge number of the officer making the motor vehicle stop.

15 **(3) SUBMISSION OF INFORMATION COLLECTED.** The person in charge of a law
16 enforcement agency shall forward the information obtained under sub. (2) to the
17 department using the form prescribed 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

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 other relevant population estimate.

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, 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 prescribing a form for use in obtaining
19 information under sub. (2) and establishing a schedule for 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).



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4443/1
MGD&CMH:jld&kg:jf

2003 BILL

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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.

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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 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 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.

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