

2005 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB100)

Received: 06/20/2005

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Leon Young (608) 266-3786

By/Representing:

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - law enforcement

Extra Copies:

Submit via email: YES

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

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

Pre Topic:

No specific pre topic given

Topic:

Racial profiling

Instructions:

See Attached

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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FE Sent For:

<END>

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				6/20			

FE Sent For:

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2005

Date (time) needed

Today please

LRB b 04461 1

BUDGET AMENDMENT

[Not for compile]

mgd : Wlj : tkjf

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**ASSEMBLY AMENDMENT
ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 2005 AB 100**

At the locations indicated, amend the bill, as shown by assembly substitute amendment 1, as follows:

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2005 BILL

1 **AN ACT to create** 165.842 and 165.85 (4) (b) 1d. f. of the statutes; **relating to:**
2 collection of information regarding motor vehicle stops, law enforcement
3 training standards, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Collection of information regarding motor vehicle stops

Under current law, 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, 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,

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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 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 nonminority, 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 enforcement under 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:

SECTION 1. 165.842 of the statutes is created to read:

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

(a) "Department" means the department of justice.

(b) "Law enforcement agency" has the meaning given in s. 165.77 (1) (b).

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

(d) "Motor vehicle stop" means the stop or detention of a motor vehicle that is traveling in any public or private place, or the detention of an occupied motor vehicle that is already stopped in any public or private place, for the purpose of investigating any alleged or suspected violation of a state or federal law or city, village, town, or county ordinance.

(2) INFORMATION COLLECTION REQUIRED. All persons in charge of law enforcement agencies shall obtain, or cause to be obtained, all of the following information with respect to each motor vehicle stop made on or after January 1, 2007, by a law enforcement officer employed by the law enforcement agency:

(a) The name, address, gender, and race of the operator of the motor vehicle.

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

#. Page, line 2: after that line insert:

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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

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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, 2008, 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).

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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. ^{2086 m} 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 ^{than} 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)