



1997 ASSEMBLY BILL 386

May 22, 1997 - Introduced by Representatives LA FAVE, SCHNEIDER, DOBYNS, GOETSCH, HANSON, MUSSER, J. LEHMAN, BRANDEMUEHL, BOCK, LADWIG, ZIEGELBAUER, WALKER, GRONEMUS, UNDERHEIM, RYBA, GROTHMAN, MURAT, F. LASEE, HAHN, SYKORA, KREUSER and OLSEN, cosponsored by Senators WIRCH, HUELSMAN, FARROW and DRZEWIECKI. Referred to Committee on Criminal Justice and Corrections.

1 **AN ACT** *to renumber* 343.14 (3) (a); *to renumber and amend* 343.14 (3) (b); *to*
2 *amend* 343.237 (3) and 343.50 (8) (b); and *to create* 343.237 (title), 343.237 (2)
3 (a) and 343.237 (2) (b) 2. and 3. of the statutes; **relating to:** law enforcement
4 agency access to photographs of applicants for operators' licenses and
5 identification cards and providing a penalty.

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 a driver's license or identification card. DOT may keep copies of the photographs for its own use but must keep the photographs confidential. DOT may release a photograph only to the individual whose photograph was taken.

This bill authorizes DOT to release photographs taken after January 1, 1998, of applicants for driver's licenses and identification cards to law enforcement agencies to perform a legally authorized function. A law enforcement agency that has obtained a photograph from DOT must keep the photograph confidential and may disclose it only as necessary to perform a legally authorized function. Any person who wrongfully discloses such a photograph may be required to forfeit not more than \$500.

The bill also requires DOT to keep records of photographs it releases, the law enforcement agency and agent that requested a photograph and the reason the photograph was requested. The bill requires DOT and the department of justice, in

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consultation with others, to annually report to the legislature on photographs that DOT has released. The bill prohibits DOT from releasing any photographs after December 31, 2002.

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.** 343.14 (3) (a) of the statutes is renumbered 343.14 (3).

2 **SECTION 2.** 343.14 (3) (b) of the statutes is renumbered 343.237 (1) and
3 amended to read:

4 343.237 (1) Any photograph taken of an applicant under ~~par. (a) or s. 343.14~~
5 ~~(3) or 343.50 (4)~~ may be maintained by the department and, except as provided in sub.
6 (2) (b), shall be kept confidential. The

7 (2) (b) 1. Except as provided in subd. 2., the department may release a
8 photograph only to the person whose photograph was taken.

9 **SECTION 3.** 343.237 (title) of the statutes is created to read:

10 **343.237 (title) Access to license and identification card photographs.**

11 **SECTION 4.** 343.237 (2) (a) of the statutes is created to read:

12 343.237 (2) (a) In this subsection, “law enforcement agency” means a
13 governmental unit of one or more persons employed full time by the federal
14 government, this state or a political subdivision of this state for the purpose of
15 preventing and detecting crime and enforcing federal or state laws or local
16 ordinances, employes of which unit are authorized to make arrests for crimes while
17 acting within the scope of their authority.

18 **SECTION 5.** 343.237 (2) (b) 2. and 3. of the statutes are created to read:

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1 343.237 (2) (b) 2. The department may release a photograph to a law
2 enforcement agency to perform a legally authorized function. For each photograph
3 released by the department under this subdivision, the department shall record and
4 maintain the name of the person whose photograph was released, the name of the
5 person who requested the photograph and the law enforcement agency that employs
6 that person, and the purpose for which the photograph was requested. Any law
7 enforcement agency that receives a photograph under this subdivision shall keep the
8 photograph confidential and may not disclose it except as necessary to perform a
9 legally authorized function. The department may not release a photograph under
10 this subdivision after December 31, 2002.

11 3. Not later than August 1, 1998, and annually thereafter until September 1,
12 2003, the department and the department of justice jointly shall submit a report to
13 the chief clerk of each house of the legislature for distribution to the legislature under
14 s. 13.172 (2) concerning the photographs released under subd. 2., including the
15 agencies to whom and the purposes for which any photographs were released. The
16 department and the department of justice shall consult with other interested
17 persons when preparing a report under this subdivision.

18 **SECTION 6.** 343.237 (3) of the statutes is amended to read:

19 343.237 (3) Any person who wilfully discloses a photograph in violation of this
20 section may be required to forfeit not more than \$500 for each violation. Each
21 photograph disclosed constitutes a separate offense.

22 **SECTION 7.** 343.50 (8) (b) of the statutes is amended to read:

23 343.50 (8) (b) The department shall not disclose any record or other
24 information concerning or relating to an applicant or identification card holder to
25 any person other than a court, district attorney, county corporation counsel, city,

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1 village or town attorney, law enforcement agency, the applicant or identification card
2 holder or, if the applicant or identification card holder is under 18 years of age, his
3 or her parent or guardian. Persons Except for photographs disclosed to a law
4 enforcement agency under s. 343.237, persons entitled to receive any record or other
5 information under this paragraph shall not disclose the record or other information
6 to other persons or agencies.

7 **SECTION 8. Initial applicability.**

8 (1) This act first applies to photographs taken on January 1, 1998.

9 (END)