



2003 SENATE BILL 479

February 20, 2004 - Introduced by Senators LASSA, BROWN and KEDZIE, cosponsored by Representatives SUDER, McCORMICK, SINICKI, MUSSER, NISCHKE, KREIBICH, OWENS, MILLER and LEMAHIEU. Referred to Committee on Judiciary, Corrections and Privacy.

1 **AN ACT** *to create* 950.04 (1v) (dL) and 968.265 of the statutes; **relating to:** lie
2 detector tests of sexual assault victims.

Analysis by the Legislative Reference Bureau

Current law imposes several limitations on the use of lie detector tests, including polygraph tests and other types of honesty tests. It is a crime to require a person to submit to a lie detector test or to administer a lie detector test to a person without obtaining the person's prior written and informed consent to the test, except that the Department of Corrections and the Department of Health and Family Services may require sex offenders to submit to lie detector tests absent consent. In addition, an employer may not require or suggest that an employee or prospective employee submit to a lie detector test, nor use any test results as grounds for negative action against an employee. Current law, however, provides exceptions to the general rule for certain investigations of business theft and for certain businesses related to security or controlled substances.

This bill prohibits law enforcement officers from ordering, requesting, or suggesting that a person who alleges that he or she is the victim of a sexual assault submit to a lie detector test, regardless of whether the victim gives prior written and informed consent to the test. The bill also prohibits law enforcement officers from providing the victim information regarding lie detector tests unless the victim requests such information. Similarly, if a person reports to a district attorney that he or she was the victim of a sexual assault, the district attorney may not order the person to submit to a lie detector test. The bill also prohibits a district attorney from suggesting or requesting that the victim submit to a lie detector test without first

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providing the person with notice and an explanation of his or her right not to submit to one.

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.** 950.04 (1v) (dL) of the statutes is created to read:

2 950.04 (1v) (dL) To not be the subject of a law enforcement officer’s or district
3 attorney’s order, request, or suggestion that he or she submit to a test using a lie
4 detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of
5 a sexual assault under s. 940.22 (2), 940.225, or 948.02 (1) or (2), except as permitted
6 under s. 968.265.

7 **SECTION 2.** 968.265 of the statutes is created to read:

8 **968.265 Lie detector tests; sexual assault victims. (1)** In this section, “lie
9 detector” has the meaning given in s. 111.37 (1) (b).

10 **(2)** If a person reports to a law enforcement officer that he or she was the victim
11 of an offense under s. 940.22 (2), 940.225, or 948.02 (1) or (2), no law enforcement
12 officer may in connection with the report order, request, or suggest that the person
13 submit to a test using a lie detector, or provide the person information regarding tests
14 using lie detectors unless the person requests information regarding tests using lie
15 detectors.

16 **(3)** If a person reports to a district attorney that he or she was the victim of an
17 offense under s. 940.22 (2), 940.225, or 948.02 (1) or (2), no district attorney may do
18 any of the following in connection with the report:

19 (a) Order that the person submit to a test using a lie detector.

