

2013 DRAFTING REQUEST

Bill

Received: 12/9/2013 Received By: phurley
Wanted: As time permits Same as LRB: -2589
For: Joseph Leibham (608) 266-2056 By/Representing:
May Contact: Drafter: phurley
Subject: Correctional System - jails Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Leibham@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Strip searches of persons placed with other prisoners in jail after arrest

Instructions:

Include in the definition of "detainee" a person arrested for any misdemeanor or ordinance who will be placed in custody with other prisoners

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>
/1	phurley 12/9/2013	scalvin 12/10/2013	rschluet 12/11/2013	_____	sbasford 12/11/2013	srose 12/11/2013	State S&L

FE Sent For:

at
intro

<END>

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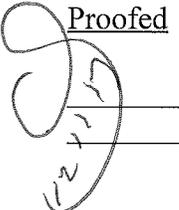
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/1	phurley	1 sac 12/10/2013	1 sac 12/10/2013				State S&L

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<END>



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2589/1

PJH:sac:ff

stays

3800/1

comp.
ian.

2013 BILL

12-9

- gen cut

1 AN ACT *to renumber and amend* 968.255 (2) (a); *to amend* 968.255 (1) (a),
2 968.255 (2) (intro.) and 968.255 (2) (b), (c), (d) and (e); and *to create* 968.255
3 (1) (a) 5. and 968.255 (2) (ag) of the statutes; **relating to:** strip searches.

Analysis by the Legislative Reference Bureau

Under current law, a person may be strip searched when he or she is arrested for any felony, for certain misdemeanors, or for any misdemeanor or civil violation if there is probable cause to believe that the person is concealing a weapon or concealing something that would constitute evidence of the offense for which he or she has been detained.

Current law requires that the person conducting the strip search is the same sex as the person searched (detainee), unless the search is a body cavity search conducted by a physician, physician assistant or registered nurse, that the detainee be shielded from the view of any person not conducting the search, that the search not be video or audio recorded, that the person conducting the search generally obtains the prior written permission from the chief, sheriff, or law enforcement administrator for his or her jurisdiction, and that the person conducting the search prepares and provides to the detainee a written report that sets forth the details of the search and its authorization.

Under current law, those requirements do not apply if the detainee is confined as a condition of probation or to serve a sentence after a criminal conviction, if the detainee is confined in a juvenile correctional facility or secured residential care center, or if the detainee is committed, transferred, or admitted to certain mental health facilities.

BILL

Under this bill, a person may be strip searched, subject to the requirements imposed under current law, if he or she is arrested or otherwise lawfully detained by law enforcement, and he or she will be incarcerated, imprisoned or otherwise detained in a jail or prison with one or more other persons.

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.** 968.255 (1) (a) of the statutes is amended to read:

2 968.255 (1) (a) ~~“Detained”~~ “Detainee” means any of the following:

3 1. ~~Arrested~~ A person arrested for any felony.

4 2. ~~Arrested~~ A person arrested for any misdemeanor under s. 167.30 (1), 940.19,
5 941.20 (1), 941.23, 941.237, 941.24, 948.60, or 948.61.

6 3. ~~Taken~~ A person taken into custody under s. 938.19 and there are reasonable
7 grounds to believe the juvenile has committed an act which if committed by an adult
8 would be covered under subd. 1. or 2.

9 4. ~~Arrested~~ A person arrested for any misdemeanor not specified in subd. 2.,
10 any other violation of state law punishable by forfeiture or any local ordinance if
11 there is probable cause to believe the person is concealing a weapon or a thing which
12 may constitute evidence of the offense for which he or she is detained.

13 **SECTION 2.** 968.255 (1) (a) 5. of the statutes is created to read:

14 968.255 (1) (a) 5. A person arrested or otherwise lawfully detained or taken into
15 custody, if the person will be incarcerated, imprisoned or otherwise detained in a jail
16 or prison with one or more other persons.

17 **SECTION 3.** 968.255 (2) (intro.) of the statutes is amended to read:

18 968.255 (2) (intro.) No person may be the subject of conduct a strip search
19 unless he or she is a detained person and if all of the following apply:

BILL

1 **SECTION 4.** 968.255 (2) (a) of the statutes is renumbered 968.255 (2) (am) and
2 amended to read:

3 968.255 (2) (am) The person conducting the search is of the same sex as the
4 ~~person detained~~ detainee, unless the search is a body cavity search conducted under
5 sub. (3);.

6 **SECTION 5.** 968.255 (2) (ag) of the statutes is created to read:

7 968.255 (2) (ag) The person subject to the search is a detainee.

8 **SECTION 6.** 968.255 (2) (b), (c), (d) and (e) of the statutes are amended to read:

9 968.255 (2) (b) The ~~detained person~~ detainee is not exposed to the view of any
10 person not conducting the search;.

11 (c) The search is not reproduced through a visual or sound recording;.

12 (d) A person conducting the search has obtained the prior written permission
13 of the chief, sheriff or law enforcement administrator of the jurisdiction where the
14 person is detained, or his or her designee, unless there is probable cause to believe
15 that the ~~detained person~~ detainee is concealing a weapon; and.

16 (e) A person conducting the search prepares a report identifying the person
17 detained, all persons conducting the search, the time, date and place of the search
18 and the written authorization required by par. (d), and provides a copy of the report
19 to the ~~person detained~~ detainee.

20

(END)

Rose, Stefanie

From: Petrovich, Luke
Sent: Wednesday, December 11, 2013 2:39 PM
To: LRB.Legal
Subject: Draft Review: LRB -3800/1 Topic: Strip searches of persons placed with other prisoners in jail after arrest

Please Jacket LRB -3800/1 for the SENATE.