

**2013 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB447)**

Received: 2/20/2014 Received By: phurley  
Wanted: As time permits Same as LRB:  
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:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Strip searches

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**Instructions:**

AB556, as amended by AA4 and AA8

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**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>
/?	phurley 2/20/2014	scalvin 2/20/2014		_____			
/1			rschluet 2/20/2014	_____	mbarman 2/20/2014	mbarman 2/20/2014	

FE Sent For:

<END>

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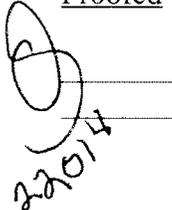
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/?	phurley	1/ SAC 02/20/2014	1/ SAC 02/20/2014				

FE Sent For:

<END>

## Hurley, Peggy

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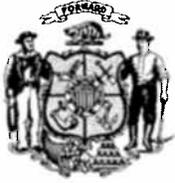
**From:** Petrovich, Luke  
**Sent:** Thursday, February 20, 2014 9:45 AM  
**To:** Hurley, Peggy  
**Cc:** Soper, John  
**Subject:** SB 447 - Strip Searches

Good Morning Peggy,

Could you draft a substitute amendment to SB 447 that incorporates the changes made to the companion version AB 556 that passed the Assembly on Tuesday? I believe it should incorporate AA4 and AA8 to AB 556.

Thanks,

**Luke Petrovich**  
Office of Senator Joe Leibham  
9th Senate District  
(608) 266-2056



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-88004

PJH:sac

stays

SSA to

**2013 SENATE BILL 447**

recv/jld

50339/1

by file pm

December 16, 2013 - Introduced by Senator LEIBHAM, cosponsored by Representatives STROEBEL, KRUG, BIES, MURPHY, BORN, MARKLEIN, A. OTT, PRIDEMORE, BROOKS and SMITH. Referred to Committee on Judiciary and Labor.

reger

- 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.

**SENATE BILL 447**

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.

Insert  
2.16A

17 SECTION ~~#~~ 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:

Insert  
2.16B  
and  
2.16C





**ASSEMBLY AMENDMENT 8,  
TO ASSEMBLY BILL 556**

February 18, 2014 - Offered by Representatives CRAIG, NEYLON, KOOYENGA,  
SANFELIPPO, KNUDSON, KESSLER and GOYKE.

*Insert 216A*

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 16: after "persons." insert <sup>no 91</sup> Subject to subd. 3., for the purpose  
3 of this subdivision, "detainee" does not include a juvenile who is taken into custody  
4 under s. 938.19 and held in custody under s. 938.209.

*Insert  
216C*

5 **2.** Page 2, line 16: after that line insert:

6 ~~SECTION 968.255~~ 968.255 (1) (b) of the statutes is amended to read:  
7 968.255 (1) (b) "Strip search" means a search in which a ~~detained person's~~  
8 detainee's genitals, pubic area, buttock or anus, or a ~~detained female person's~~ female  
9 detainee's breast, is uncovered and either is exposed to view or is touched by a person  
10 conducting the search, except that if the detainee is a person defined in par. (a) 5.,  
11 "strip search" means a search in which a detainee's genitals, pubic area, buttock or  
12 anus, or a female detainee's breast, is uncovered and exposed to view but is not  
13 touched by a person conducting the search unless the touching is necessary to gain



**ASSEMBLY AMENDMENT 4,  
TO ASSEMBLY BILL 556**

February 13, 2014 - Offered by COMMITTEE ON JUDICIARY.

*Insert 2 16B*

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 16: after that line insert:

3 ~~SECTION 968.255~~ 968.255 (1) (ag) of the statutes is created to read:

4 968.255 (1) (ag) "Jail" includes municipal prisons and rehabilitation facilities  
5 established under s. 59.53 (8) by whatever name they are known, but does not include  
6 lockup facilities.

7 ~~SECTION 968.255~~ 968.255 (1) (ar) of the statutes is created to read:

8 968.255 (1) (ar) "Lockup facilities" means those facilities of a temporary place  
9 of detention at a police station that are used exclusively to hold persons under arrest  
10 until they can be brought before a court and that are not used to hold persons pending  
11 trial who have appeared in court or have been committed to imprisonment for  
12 nonpayment of fines or forfeitures".

13 (END)

2.16C, cont

1 the detainee's cooperation with the search or unless the touching is necessary to  
2 assist a disabled detainee's cooperation with the search."

Insert 37

3 **3.** Page 3, line 7: after that line insert:

4 ~~SECTION 5m.~~ 968.255 (2) (ar) of the statutes is created to read:

5 968.255 (2) (ar) The detainee will be incarcerated, imprisoned, or otherwise  
6 detained in the jail or prison where the search is conducted for not less than 12 hours.  
7 This paragraph applies only to a detainee who meets the definition in sub. (1) (a) 5."

8 **4.** Page 3, line 19: after that line insert:

9 ~~SECTION 6m.~~ 968.255 (6) of the statutes is amended to read:

10 968.255 (6) A Each law enforcement agency, as defined in s. 165.83 (1) (b), may  
11 promulgate rules and each facility where a strip search may be conducted pursuant  
12 to this section, shall establish written policies and procedures concerning strip  
13 searches which at least meet the minimum requirements of this section and shall  
14 provide annual training regarding the policies and procedures to any employee or  
15 agent of the agency or facility who may conduct a strip search."

Inset  
3.19

16 (END)