

**2013 DRAFTING REQUEST**

**Assembly Amendment (AA-AB556)**

Received: 2/13/2014 Received By: phurley  
Wanted: As time permits Same as LRB:  
For: Jim Ott (608) 266-0486 By/Representing: Ginger  
May Contact: Drafter: phurley  
Subject: Correctional System - jails Addl. Drafters:  
Extra Copies:

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Definition of jails

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**Instructions:**

See attached

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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> |
|--------------|----------------------|--------------------|----------------------|----------------|--------------------|--------------------|-----------------|
| /1           | phurley<br>2/13/2014 | jdyer<br>2/13/2014 | jmurphy<br>2/13/2014 | _____          | srose<br>2/13/2014 | srose<br>2/13/2014 |                 |

FE Sent For:

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /1           | phurley        | 1 2/13 jld      | jd           | _____          | _____            | _____           | _____           |
|              |                |                 |              | _____          | _____            | _____           | _____           |

Handwritten signature and date: jld 2/13

FE Sent For:

<END>

## Hurley, Peggy

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**From:** Karls-Ruplinger, Jessica  
**Sent:** Thursday, February 13, 2014 10:45 AM  
**To:** Hurley, Peggy  
**Cc:** Mueller, Virginia  
**Subject:** AB 556 - Committee Amendment

**Importance:** High

Peggy,

The Assembly Committee on Judiciary adopted an amendment to AB 556 this morning. The amendment has not been drafted by LRB. Could you draft the amendment and provide it to Ginger in Rep. J. Ott's office? She will need to introduce it on behalf of the committee. Could you also let Ginger know what the LRB number will be on the amendment? She needs that ASAP. Here is what was approved:

- Create s. 968.255 (1) (am), Stats., to define "jail" in the following manner:

"Jail" has the meaning given in s. 302.30, except that "jail" does not include lockup facilities as defined in s. 302.30.

- Amend s. 302.30, Stats., in the following manner:

**Definition of jail.** In ss. 302.30 to 302.43, "jail" includes municipal prisons and rehabilitation facilities established under s. 59.53 (8) by whatever name they are known. In ss. 302.37 (1) (a) and (3) (a) and 968.255 (1) (am), "jail" does not include lockup facilities. "Lockup facilities" means those facilities of a temporary place of detention at a police station which are used exclusively to hold persons under arrest until they can be brought before a court, and are not used to hold persons pending trial who have appeared in court or have been committed to imprisonment for nonpayment of fines or forfeitures. In s. 302.365, "jail" does not include rehabilitation facilities established under s. 59.53 (8).

In looking at the amendment to s. 302.30, Stats., further, I don't think it is necessary to amend that section. The section starts with "In ss. 302.30 to 302.43 ...", and the change to s. 968.255 (1) (am), Stats., is not contained within those statutory sections. I think the creation of s. 968.255 (1) (am), Stats., is sufficient to define "jail". What do you think? If you think it is not necessary, don't add it. I told the committee that that portion of the amendment might not be contained in the final amendment.

Jessica

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Jessica Karls-Ruplinger  
Senior Staff Attorney  
Wisconsin Legislative Council  
(608) 266-2230  
[Jessica.Karls@legis.wisconsin.gov](mailto:Jessica.Karls@legis.wisconsin.gov)

## Hurley, Peggy

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**From:** Karls-Ruplinger, Jessica  
**Sent:** Thursday, February 13, 2014 11:17 AM  
**To:** Hurley, Peggy; Mueller, Virginia  
**Subject:** RE: AB 556 - Committee Amendment

Peggy,

I think the alternative is better. However, "jail" should include rehabilitation facilities (you have it both included and excluded in the definition of "jail"). When I explained the amendment, I explained that "jail" would include municipal prisons and rehabilitation facilities but exclude lockup facilities. Here is what that would look like:

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

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

Jessica

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Senior Staff Attorney  
Wisconsin Legislative Council  
(608) 266-2230  
Jessica.Karls@legis.wisconsin.gov

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**From:** Hurley, Peggy  
**Sent:** Thursday, February 13, 2014 11:06 AM  
**To:** Mueller, Virginia  
**Cc:** Karls-Ruplinger, Jessica  
**Subject:** RE: AB 556 - Committee Amendment

Okay. The LRB number is 13a1792. I entered it for Representative Ott; please let me know if that is not correct.

Looking more closely at the language, I think it will be best to create s. 968.255 (1) (am) to say that " "Jail" has the meaning given in s. 302.30" and then add the "in s. 968.255 (not 968.255 (1) (am), because the definition given in s. 302.30 will apply to all of 968.255)" language to s. 302.30.

That's because the definition in s. 302.30 already states that jail does not include lockup facilities, and by cross-referencing s. 968.255 in 302.30, that exclusion will also apply to 968.255. I'm not entirely sure what to do with the language regarding rehabilitation facilities in s. 302.30.

An alternative, perhaps simpler, would be to simply lift the language from 302.30 and use it as the definition in 968.255 (1) (am):

968.255 (1) (am) "Jail" includes municipal prisons and rehabilitation facilities established under s. 59.53 (8) by whatever name they are known, but does not include lockup facilities or rehabilitation facilities established under s. 59.53 (8). (ar) "Lockup facilities" means those facilities of a temporary place of detention at a police station which are used exclusively to hold persons under arrest until they can be brought before a court, and are not used to hold persons pending trial who have appeared in court or have been committed to imprisonment for nonpayment of fines or forfeitures.

Your thoughts?

Peggy

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**From:** Mueller, Virginia  
**Sent:** Thursday, February 13, 2014 10:53 AM  
**To:** Hurley, Peggy  
**Subject:** RE: AB 556 - Committee Amendment

Peggy,

The bill is up on the floor on Tuesday needs to get through Rules today. I just need an LRB number for the committee report.

Thanks

Ginger

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**From:** Hurley, Peggy  
**Sent:** Thursday, February 13, 2014 10:51 AM  
**To:** Karls-Ruplinger, Jessica  
**Cc:** Mueller, Virginia  
**Subject:** RE: AB 556 - Committee Amendment

Hi Jessica,

Thanks; I'll draft the amendment. At first glance, I think you are correct that s. 302.30 doesn't need amending, but I'll take a closer look.

The office today is mostly caught up in drafting amendments for today's floor session; does "ASAP" mean today, or will tomorrow suffice?

Peggy

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**From:** Karls-Ruplinger, Jessica  
**Sent:** Thursday, February 13, 2014 10:45 AM  
**To:** Hurley, Peggy  
**Cc:** Mueller, Virginia  
**Subject:** AB 556 - Committee Amendment  
**Importance:** High

Peggy,

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- Create s. 968.255 (1) (am), Stats., to define "jail" in the following manner:

"Jail" has the meaning given in s. 302.30, except that "jail" does not include lockup facilities as defined in s. 302.30.

- Amend s. 302.30, Stats., in the following manner:

**Definition of jail.** In ss. 302.30 to 302.43, "jail" includes municipal prisons and rehabilitation facilities established under s. 59.53 (8) by whatever name they are known. In ss. 302.37 (1) (a) and (3) (a) and 968.255 (1) (am), "jail" does not include lockup facilities. "Lockup facilities" means those facilities of a temporary place of detention at a police station which are used exclusively to hold persons under arrest until they can be brought before a court, and are not used to hold persons pending trial who have appeared in court or have been committed to imprisonment for nonpayment of fines or forfeitures. In s. 302.365, "jail" does not include rehabilitation facilities established under s. 59.53 (8).

In looking at the amendment to s. 302.30, Stats., further, I don't think it is necessary to amend that section. The section starts with "In ss. 302.30 to 302.43 ...", and the change to s. 968.255 (1) (am), Stats., is not contained within those statutory sections. I think the creation of s. 968.255 (1) (am), Stats., is sufficient to define "jail". What do you think? If you think it is not necessary, don't add it. I told the committee that that portion of the amendment might not be contained in the final amendment.

Jessica

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## 2013 ASSEMBLY BILL 556

December 12, 2013 - Introduced by Representatives STROEBEL, KRUG, BIES, MURPHY, BORN, MARKLEIN, A. OTT, PRIDEMORE, BROOKS and SMITH, cosponsored by Senator LEIBHAM. Referred to Committee on Judiciary.

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.

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### *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.

**ASSEMBLY BILL 556**

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.

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*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:





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBa1792/1

PJH: ^:...

*JLd*

ASSEMBLY AMENDMENT,  
TO ASSEMBLY BILL 556

*today*

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

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

3 "SECTION 2g. 968.255 (1) (ag) of the statutes is created to read:

4 968.255 (1) (a) <sup>g</sup> "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 2r. 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 <sup>e that</sup> which are used exclusively to hold persons under  
10 arrest until they can be brought before a court <sup>e that</sup> and are not used to hold persons  
11 pending trial who have appeared in court or have been committed to imprisonment  
12 for nonpayment of fines or forfeitures.

13

(END)