



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Senate Bill 315**

**Senate Amendments 1 and 2**

*Memo published:* October 31, 2005

*Contact:* Don Dyke, Chief of Legal Services (266-0292)  
Ron Sklansky, Senior Staff Attorney (266-1946)

### **Senate Amendment 1**

Senate Amendment 1 includes the following:

1. Item 1. of the amendment provides that grants awarded under the grant program created by the bill may be used to reimburse law enforcement agencies for “payments made” on or after July 7, 2005, in addition to reimbursement for “expenses incurred” on or after that date. Thus, for example, if expenses for equipment or training were incurred before July 7, 2005, but payment was made on or after that date, those expenses can be reimbursed.
2. Item 2. of the amendment inserts specific expenditure authority for the Office of Justice Assistance in connection with the bill’s grant program. The numbers are based on the Legislative Fiscal Bureau’s estimate of revenues that will be generated by the 1% increase in the penalty surcharge included in the bill.
3. Item 3. of the amendment modifies the provision in the bill stating that post conviction DNA testing has priority over other work of the crime laboratories. Under the amendment, such DNA testing has priority “consistent with the right of a defendant or a victim to a speedy trial.”
4. Item 4. of the amendment amends the language in the bill providing that an unrecorded statement made by a juvenile during a custodial interrogation is not admissible “in a case” alleging the juvenile to be delinquent to refer, instead, to any “court proceeding” alleging the juvenile to be delinquent.
5. Item 5. of the amendment provides that an unrecorded statement made by a juvenile during a custodial interrogation is not inadmissible if “other good cause exists” for not suppressing the statement. Thus, in addition to the exceptions outlined on page 15, lines 1 to 16 of the bill, the amendment provides a general “good cause” exception.

6. Items 6. and 8. of the amendment modify the following exception to the custodial interrogation recording requirement: “The [juvenile or adult] refused to respond or cooperate in the custodial interrogation if...[a] recording was made...so long as a contemporaneous...recording or written record was made of the...refusal.” The amendment expressly provides that the contemporaneous recording or written record be made by the law enforcement officer or agent of the law enforcement agency.

7. Items 7. and 10. of the amendment modify language in the bill concerning consideration of the absence of a recording of a custodial interrogation by a jury or judge in weighing the evidence in a felony trial. The amendment clarifies that the jury or judge may consider the absence of a recording in evaluating that evidence “relating to the interrogation and the [defendant’s] statement.”

8. An exception in the bill to the policy of recording custodial interrogations of adults suspected of committing a felony is when the law enforcement officer “reasonably believed at the time of the interrogation that the offense for which the person was taken into custody or for which the person was being investigated, was not a felony.” The amendment substitutes “at the commencement of the interrogation” for “at the time of the interrogation.”

### **Senate Amendment 2**

Senate Amendment 2 revises the definition of “custodial interrogation” to clarify that the interrogation begins when the suspect is or “should be” apprised of his or her rights to counsel and to remain silent.

### **Legislative History**

The Senate Committee on Judiciary, Corrections and Privacy recommended adoption of Senate Amendment 1 by a vote of Ayes, 5; Noes, 0, and recommended passage of Senate Bill 315, as amended, by a vote of Ayes, 5; Noes, 0.

The Joint Committee on Finance: recommended adoption of Senate Amendment 1 by a vote of Ayes, 16; Noes, 0; offered Senate Amendment 2 and recommended its adoption by a vote of Ayes, 16; Noes, 0; and recommended passage of Senate Bill 315, as amended, by a vote of Ayes, 16; Noes, 0.

DD:RS:ksm:tlu