



## 2013 SENATE BILL 447

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.

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.

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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:

