



1997 SENATE BILL 386

December 19, 1997 - Introduced by Senators PLACHE, DARLING, RISSER, BURKE and COWLES, cosponsored by Representatives POWERS, HUBER, GROTHMAN, GOETSCH, J. LEHMAN, WALKER, GRONEMUS and BOYLE, by request of Attorney General Jim Doyle. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

1 **AN ACT to renumber and amend** 165.79 (1) of the statutes; **relating to:** crime
2 laboratories.

Analysis by the Legislative Reference Bureau

This bill makes the following changes relating to evidence and information provided to the state crime laboratories in the department of justice and relating to analyses of evidence by the state crime laboratories:

1. Currently, in a felony case, the defendant may request that the laboratories conduct analyses of evidence for him or her. If the presiding judge approves the request, the laboratories must conduct the analyses. This bill provides that such a request may come only after the arraignment and prior to trial in a felony case. Further, if the defendant requests analyses of evidence that has already been submitted by a law enforcement officer for analyses by the laboratories, the judge may grant the defendant's request only if the new analyses are wholly unrelated to the prior analyses.

2. The bill specifies that the prosecution and the defendant in a criminal case do not have the right, prior to trial, to call laboratory employes as witnesses regarding evidence or information provided to the laboratories by the opposing party.

3. The bill specifies that the laboratories are solely responsible for deciding the manner and conditions under which they will conduct analyses of evidence submitted by law enforcement officers or defendants.

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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.** 165.79 (1) of the statutes is renumbered 165.79 (1) (a) and amended
2 to read:

3 165.79 (1) (a) Evidence, information and analyses of evidence obtained from
4 law enforcement officers by the laboratories is privileged and not available to persons
5 other than law enforcement officers nor is the defendant entitled to an inspection of
6 information and evidence submitted to the laboratories by the state or of a
7 laboratory's findings, or to examine call laboratory personnel employees as witnesses
8 concerning the same, prior to trial, ~~except to the extent that the same is used by the~~
9 ~~state at a preliminary hearing and except as provided in s. 971.23.~~

10 (b) Upon a timely request of a defendant made after arraignment but before
11 trial in a felony action, and approved by the presiding judge, the laboratories shall
12 conduct analyses of evidence on behalf of the defendant. ~~No~~ If the defendant requests
13 analyses of evidence previously submitted to the laboratories for analyses under par.
14 (a), the judge shall not approve the request unless the analyses would be wholly
15 unrelated to the analyses conducted under par. (a). If the defendant requests the
16 laboratories to examine evidence in possession of the defendant, no prosecuting
17 officer is entitled to an inspection of information and evidence submitted to the
18 laboratories by the defendant under this paragraph, or of a laboratory's findings, or
19 to examine call laboratory personnel employees as witnesses concerning the same,
20 prior to trial, ~~except to the extent that the same is used by the accused at a~~
21 ~~preliminary hearing and except as provided in s. 971.23.~~

