

**ASSEMBLY AMENDMENT 1,
TO 2001 ASSEMBLY BILL 216**

December 17, 2001 – Offered by Representative SHERMAN.

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

2 **1.** Page 2, line 12: delete the material beginning with “Neither” and ending
3 with “hearing.” on line 16 and substitute “Except as provided in par. (c), neither party
4 is entitled to prehearing discovery.”.

5 **2.** Page 3, line 10: delete the material beginning with “Neither” and ending
6 with “hearing.” on line 14 and substitute “Except as provided in par. (c), neither party
7 is entitled to prehearing discovery.”.

8 **3.** Page 3, line 17: after that line insert:

9 “**SECTION 2g.** 343.305 (9) (c) of the statutes is renumbered 343.305 (9) (c) (intro.)
10 and amended to read:

11 343.305 **(9)** (c) (intro.) If a law enforcement officer informs the circuit court that
12 a person has refused to submit to a test under sub. (3) (a) or (am), the court shall be
13 prepared to hold any requested hearing to determine if the refusal was proper. The

1 scope of the hearing shall be limited to the issues outlined in par. (a) 5. or (am) 5.
2 Section 967.055 applies to any hearing under this subsection. Prehearing discovery
3 may be made only under the following circumstances:

4 **SECTION 2j.** 343.305 (9) (c) 1. and 2. of the statutes are created to read:

5 343.305 **(9)** (c) 1. If the person who refused to take the test under sub. (3) (a)
6 or (am) moves within 10 days after the alleged refusal and shows cause therefor, the
7 court may order that the defendant be allowed to inspect and test under s. 804.09 and
8 under such conditions as the court prescribes, any devices used by the officer to
9 determine whether a violation or refusal has been committed, including without
10 limitation, devices used to determine presence of alcohol in breath, blood, or urine,
11 and may inspect under s. 804.09 the reports of experts relating to those devices.

12 2. At the refusal hearing, before a witness testifies, written or voice recorded
13 statements of the witness, if any, shall be given to the person who refused to take the
14 test under sub. (3) (a) or (am). For cause, the court may order the production of those
15 statements before the hearing.”.

16 (END)