

2001 DRAFTING REQUEST

Bill

Received: 03/12/2001

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Scott Walker (608) 266-9180

By/Representing: Melissa Gilbert

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - district attys
Criminal Law - law enforcement
Criminal Law - sexual assault
Criminal Law - victims

Extra Copies:

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

prohibit law enforcement and prosecutors from requiring a sexual assault victim to submit to a polygraph test

Instructions:

See Attached

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	rryan 04/11/2001	jdyer 04/12/2001	jfrantze 04/12/2001	_____	lrb_docadmin 04/12/2001	lrb_docadminS&L 07/31/2001	

FE Sent For

LA intro

<END>

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1?	rryan	1/4/12 JLD	7/6/12	3/6/12 4/12			

FE Sent For:

<END>



Scott Walker

Wauwatosa's Representative in the Wisconsin State Assembly

3/12/01

Robin,

As I mentioned during our conversation earlier today, we would like to draft legislation prohibiting law enforcement & prosecutors from requiring alleged sexual assault victims to take polygraph tests. The purpose is to prevent authorities from using the results as the basis for deciding whether to pursue an investigation and to prevent the intimidation of victims. I've enclosed a copy of Michigan's statute & marked the parts we want to use.

P.O. Box 8953 • Madison, Wisconsin 53708-8953 • (608) 266-9180
Toll-Free: (888) 534-0014 • Rep.Walker@legis.state.wi.us
2334 N. 73rd Street • Wauwatosa, Wisconsin 53213 • (414) 258-1086

Thanks!
Missy

RLR

Cheri Dubiel

From: Karen Lang <karenlang30@hotmail.com>
To: <NASACpublicpolicy@egroups.com>
Sent: Thursday, December 14, 2000 10:57 AM
Subject: Re: Fw: [NASACpublicpolicy] policies

Marigail - here is Michigan's polygraph legislation. Karen Lang

Polygraph Test

MCL § 776.21; MSA § 28.1274(2)

(1) As used in this section:

(a) "Law enforcement officer" means a police officer of a county, city, village, township, or this state; a college or university public safety officer; a prosecuting attorney, assistant prosecuting attorney, or an investigator for the office of prosecuting attorney; or any other person whose duty is to enforce the laws of this state.

(b) "Victim" means a person who is a victim of a crime under sections ~~520b to 520e and 520g of Act No. 328 of the Public Acts of 1931, being sections 750.520b to 750.520e and 750.520g of the Michigan Compiled Laws.~~

(2) A law enforcement officer shall not request or order a victim to submit to a polygraph examination or lie detector test. A law enforcement officer shall not inform a victim of the option of taking a polygraph examination or lie detector test unless the victim inquires concerning such a test or as provided by subsection (3).

(3) A law enforcement officer shall inform the victim when the person accused of a crime specified in subsection (1)(b) has voluntarily submitted to a polygraphic examination or lie detector test and the test indicates that the person may not have committed the crime.

(4) Subsections (2) and (3) apply only to a polygraph examination or lie detector test which is requested, ordered, or given in regard to a person being a victim.

(5) A defendant who allegedly has committed a crime under sections 520b to 520e and 520g of Act No. 328 of the Public Acts of 1931, shall be given a polygraph examination or lie detector test if the defendant requests it.

940.225 (1)
940.225 (2)
etc.
948.02 (1)
(2)
etc.

>From: "Marigail Sexton" <msexton@vnet.vineco.com>

>Reply-To: NASACpublicpolicy@egroups.com

>To: <NASACpublicpolicy@egroups.com>

>Subject: Fw: [NASACpublicpolicy] policies

>Date: Thu, 14 Dec 2000 10:23:54 -0500

>
>
>
>
>

>> Karen, I would love a copy of your polygraph legislation. The polygraph

Ryan, Robin

From: Gilbert, Melissa
Sent: April 06, 2001 10:21 AM
To: Ryan, Robin
Subject: RE: Polygraph of sexual assault victims

Robin,

Sorry it has taken me so long to get back to you. Unless you can think of some reason not to, I guess we'll include that section.

Thanks,
Missy

-----Original Message-----

From: Ryan, Robin
Sent: Wednesday, April 04, 2001 4:53 PM
To: Gilbert, Melissa
Subject: Polygraph of sexual assault victims

Do you want the polygraph prohibition to apply to victims of s. 940.22 (2), sexual exploitation by therapist, in addition to sexual assault under 940.225 and 948.02? thanks

04/06/2001



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2819/1

RLR:.....

In 4/11/01

JLD

2001 BILL

Gen Cat.

1 AN ACT, ^y...; relating to: lie detector tests of sexual assault victims. ✓

Analysis by the Legislative Reference Bureau

Current law imposes several limitations on the use of lie detector tests, including polygraph tests and other types of honesty tests. It is a crime to require a person to submit to a lie detector test or to administer a lie detector test to a person, without obtaining the person's prior written and informed consent to the test, except that the department of corrections and the department of health and family services may require sex offenders to submit to lie detector tests absent consent. In general, an employer may not require or suggest that an employee or prospective employee submit to a lie detector test, nor use any test results as grounds for negative action against an employee, though current law provides exceptions to the general rule for certain investigations of business theft and for certain businesses related to security or controlled substances.

This bill prohibits law enforcement officers and district attorneys from requiring, requesting, or suggesting that a person who alleges that he or she is the victim of a sexual assault submit to a lie detector test, regardless of whether the victim gives prior written and informed consent to the test. The bill also prohibits law enforcement officers and district attorneys from providing the victim information regarding lie detector tests unless the victim requests such information.

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:



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

April 12, 2001

MEMORANDUM

To: Representative Walker

From: Robin L. Ryan, Legislative Attorney

Re: LRB-2819/1 prohibit law enforcement and prosecutors from requiring a sexual assault victim to submit to a polygraph test

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-6927 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.