

**2003 DRAFTING REQUEST**

**Bill**

Received: 02/11/2004

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Julie Lassa (608) 266-3123

By/Representing: Robin

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - sex offenses  
Criminal Law - victims  
Criminal Law - district attys  
Criminal Law - law enforcement

Extra Copies:

Submit via email: YES

Requester's email: Sen.Lassa@legis.state.wi.us

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

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

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**Instructions:**

AB652 + AA1

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**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>
/?	mdsida 02/17/2004	jdyer 02/17/2004		_____			S&L
/1			chaugen	_____	lemery	sbasford	

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			02/17/2004 _____		02/17/2004	02/19/2004	
			_____			sbasford	
			_____			02/19/2004	

FE Sent For:

*At  
intro.*

<END>

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1?	mdsida	1 2/17 JLD	ck 2-12	ck 2-12 pb			

FE Sent For:

<END>

## Dsida, Michael

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**From:** Ryan, Robin  
**Sent:** Monday, February 16, 2004 8:25 AM  
**To:** Dsida, Michael  
**Subject:** RE: AA1 to AB652 (lie detector test bill)

That's fine. thanks for checking

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

**From:** Dsida, Michael  
**Sent:** Saturday, February 14, 2004 4:11 PM  
**To:** Ryan, Robin  
**Subject:** AA1 to AB652 (lie detector test bill)

I want to make sure that you know what the amendment does and doesn't cover. The amendment does not preclude a DA from ordering a person to take a lie detector test or suggesting or requesting one if the DA learns of the sexual assault from someone other than the victim. It's possible that it could be construed to cover those situations, but there's no guarantee that it would be.

Let me know if that's okay.

Mike Dsida  
Legislative Reference Bureau  
608/266-9867  
michael.dsida@state.legis.wi.us

stays

WED

# 2003 ASSEMBLY BILL 652A

November 10, 2003 - Introduced by Representatives SUDER, McCORMICK, SINICKI, MUSSER, NISCHKE, KREIBICH, OWENS, VAN ROY, MILLER and LEMAHIEU, cosponsored by Senators LASSA, BROWN, ROESSLER and KEDZIE. Referred to Committee on Criminal Justice.

Regen

1 AN ACT to create 968.265 of the statutes; relating to: lie detector tests of sexual  
2 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. Current law, however, provides exceptions to the general rule for certain investigations of business theft and for certain businesses related to security or controlled substances.

addition

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.

ordering

ins A

**ASSEMBLY BILL 652**

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:*

INS ✓  
2/0

1 SECTION 1. 968.265<sup>X</sup> of the statutes is created to read:

2 **968.265 Lie detector tests; sexual assault victims.** (1) In this section, "lie  
3 detector" has the meaning given in s. 111.37 (1) (b).

4 (2) If a person reports to a law enforcement officer ~~or a district attorney~~<sup>Y</sup> that  
5 he or she was the victim of an offense under s. 940.22 (2), 940.225, or 948.02 (1) or  
6 (2),<sup>✓</sup> no law enforcement officer ~~or district attorney~~<sup>Z</sup> may in connection with the report  
7 order, request, or suggest that the person submit to a test using a lie detector, or  
8 provide the person information regarding tests using lie detectors unless the person  
9 requests information regarding tests using lie detectors.

10

(END)

INS 2/9



~~ASSEMBLY AMENDMENT 1,  
TO 2003 ASSEMBLY BILL 652~~

February 10, 2004 - Offered by Representative SUDER.

1 ~~At the locations indicated, amend the bill as follows.~~

2 ~~1. Page 2, line 1: before that line insert:~~

3 ~~SECTION 1g. 950.04 (1v) (dL) of the statutes is created to read:~~

4 950.04 (1v) (dL) To not be the subject of a law enforcement officer's or district  
5 attorney's order, request, or suggestion that he or she submit to a test using a lie  
6 detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of  
7 a sexual assault under s. 940.22 (2), 940.225, or 948.02 (1) or (2), except as permitted  
8 under s. 968.265.

INS  
2/0

9 ~~2. Page 2, line 1: delete "1" and substitute "1r".~~

10 ~~3. Page 2, line 4: delete "or a district attorney".~~

11 ~~4. Page 2, line 6: delete "or district attorney".~~

12 ~~5. Page 2, line 9: after that line insert:~~

1 (3) If a person reports to a district attorney that he or she was the victim of  
2 an offense under s. 940.22 (2), 940.225, or 948.02 (1) or (2), no district attorney may  
3 do any of the following in connection with the report:

4 (a) Order that the person submit to a test using a lie detector.

5 (b) Suggest or request that the person submit to a test using a lie detector  
6 without first providing the person with notice and an explanation of his or her right  
7 not to submit to such a test. <sup>e</sup>

8 ~~(END)~~

INS  
2/9

2003-2004 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4253/1ins  
MGD:.....

1  
2  
3  
4  
5  
6

**INSERT A**

Similarly, if a person reports to a district attorney that he or she was the victim of a sexual assault, the district attorney may not order the person to submit to a lie detector test. The bill also prohibits a district attorney from suggesting or requesting that the victim submit to a lie detector test without first providing the person with notice and an explanation of his or her right not to submit to one.