

## 2011 DRAFTING REQUEST

### Senate Substitute Amendment (SSA-SB214)

Received: 02/24/2012

Received By: **chanaman**

Wanted: **As time permits**

Companion to LRB:

For: **Sheila Harsdorf (608) 266-7745**

By/Representing: **Matt**

May Contact:

Drafter: **chanaman**

Subject: **Criminal Law - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Harsdorf@legis.wisconsin.gov**

Carbon copy (CC:) to: **Waylon.Hurlburt@wisconsin.gov**  
**leah.wavrunek@wisconsin.gov**

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Collecting DNA from persons arrested for certain felonies

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#### Instructions:

See attached--SB-214 with changes

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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>
/?	chanaman 02/24/2012	jdyer 02/24/2012		_____			
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/P3	chanaman 02/27/2012	kfollett 02/27/2012	jmurphy 02/27/2012	_____	ggodwin 02/27/2012		
/P4	chanaman 02/28/2012	kfollett 02/28/2012	phenry 02/27/2012	_____	mbarman 02/27/2012		
/1			rschluet 02/28/2012	_____	lparisi 02/28/2012	lparisi 02/28/2012	

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JACKET  
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RUSH  
RESPONSE

1/15/12  
2/28/12  
JD  
MIN

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*jm  
2/27*

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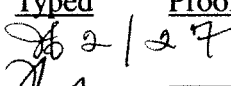
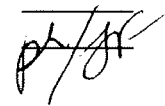
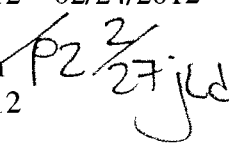
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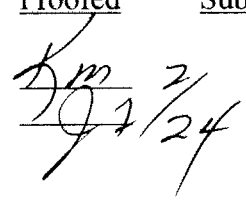
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1?	chanaman	PI 2/24 JL					
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July 1, 2011 -

June 30, 2013

Suggested changes Senate Bill 214:

1. Create a program to begin shortly after enrollment of SB 214. This could be 30 days to give time for DOJ and local law enforcement to prepare.
2. This program would begin a scaled back version of SB 214 and require a report at the end to inform policy makers of how much this program costs and how it could be potentially expanded or continued in the future.
3. Put the burden on the arrested individual to expunge his or her DNA. Require a letter to DOJ to request expunging a DNA sample. This would be the same practice as currently is used by the crime lab which only results in about ten a year. It would keep DOJ from having to potentially purchase software, design a system, and implement a new process with potentially new staff. *This may be in the bill already, but is listed here to be sure.*
4. Scale down the type of offenders who would be required to submit a sample. Samples would be required of only adults. [Final list of arrest types TBD]
5. Use notwithstanding (2009 Act 2 JFC review) language to be able to use the \$1,000,000 in ARRA funds from OJA for SB 214. These funds would be transferred from OJA to DOJ.
6. The surplus ARRA funds at OJA must be used by February 2013. OJA would be required to report by May 1 of 2013 on the costs (state and local), types of arrests and totals, projected costs if expanded, cold cases solved, concerns or problems with the program, and any other relevant information needed to decide how much to expand the program in the 2013-14 budget.
7. ~~Create an appropriation line in the budget for this program in DOJ to continue in the future.~~
8. The Attorney General would be given the authority to continue the program if he determines funds are available after Feb. 2013 or can end it early if funds run out before Feb. 2013.
9. The OJA report would due no later than May 1 of 2013 and would be submitted to JFC so they can decide to continue, expand, how much to fund, etc. in the 2013-14 budget.

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 ARRA

2009 Act  
 2  
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 9131  
 (a)  
 (b)

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 allocated to DOJ  
 20.45T (2) (K)  
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## CRIMES

Explanation of crimes listed below:

In black print: Those crimes set forth in Wis. Stat. §939.632(1)(e), which sets forth crimes to be known as violent crime.

*In Green italics: Those crimes not included in the definition of violent crime but are especially dangerous to society.*

940.01 – First-degree intentional homicide

940.02 – First-degree reckless homicide

940.03 – Felony murder

940.05 – Second-degree intentional homicide

*940.06 – Second-degree reckless homicide*

*940.08 – Homicide by negligent handling of dangerous weapons, explosives or fire*

940.09 – Homicide by intoxicated use of vehicle or firearm

940.19 – Battery; substantial battery; aggravated battery

- (2) Whoever causes substantial bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class I felony.
- (4) Whoever causes great bodily harm to another by an act done with intent to cause bodily harm to that person or another is guilty of a Class H felony.
- (5) Whoever causes great bodily harm to another by an act done with intent to cause great bodily harm to that person or another is guilty of a Class E felony.

940.21 – Mayhem

940.225 – Sexual Assault

- (1) 1<sup>st</sup> Degree Sexual Assault
- (2) 2<sup>nd</sup> Degree Sexual Assault
- (3) 3<sup>rd</sup> Degree Sexual Assault
- (3m) 4<sup>th</sup> Degree Sexual Assault

*940.235 – Strangulation and suffocation*

*940.24 – Injury by negligent handling of dangerous weapon, explosives or fire*

*940.25 – Injury by intoxicated use of a vehicle*

*940.30 – False imprisonment*

940.305 – Taking hostages

940.31 – Kidnapping

*940.32 – Stalking*

*940.43 – Intimidation of witnesses; felony*

*940.45 – Intimidation of victims; felony*

941.20 – Endangering safety by use of dangerous weapon

941.21 – Disarming a peace officer

*941.28 – Possession of a short-barreled shotgun or short-barreled rifle*

*941.29 – Possession of a firearm by a prohibited person except not to include subsection (bm)*

*941.30 – Recklessly endangering safety*

*941.31 – Possession of explosives*

*943.011 – Damage or threat to property of witness*

943.012 – Criminal damages to or graffiti on religious and other property

943.013 – Criminal damage; threat; property of judge

943.02 – Arson of buildings; damage of property by explosives

943.06 – Molotov cocktails

943.10 – Burglary

- (2) Whoever violates sub. (1m) under any of the following circumstances is guilty of a Class E felony

943.23 – Operating a vehicle without the owner's consent

- (1g) Whoever, while possessing a dangerous weapon and by the use of, or the threat of the use of, force or the weapon against another, intentionally takes any vehicle without the consent of the owner is guilty of a Class C felony

943.32 – Robbery

- (2) Whoever violates sub. (1) by use or threat of use of a dangerous weapon, a device or container described under s. 941.26(4)(a) or any article used or fashioned in a manner to lead the victim reasonably to believe that it is a dangerous weapon or such a device or container is guilty of a Class C felony

948.02 – Sexual assault of a child

- (1) 1<sup>st</sup> Degree sexual assault. Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 13 years and causes great bodily harm to the person is guilty of a Class A felony.
- (2) 2<sup>nd</sup> degree sexual assault. Whoever has sexual contact or sexual intercourse with a person who has not attained the age of 16 years is guilty of a Class C felony.

948.025 – Engaging in repeated acts of sexual assault of the same child

948.03 – Physical abuse of a child

948.051 – Trafficking of a child

948.055 – Causing a child to view or listen to sexual activity

948.07 – Child enticement

948.075 – Use of a computer to facilitate a child sex crime

948.08 – Soliciting a child for prostitution

948.085 – Sexual assault of a child placed in substitute care

948.30 – Abduction of another's child; constructive custody

- (2) Any person who, for any unlawful purpose, does any of the following is guilty of a Class C felony

961.41 – Prohibited acts A – Penalties

- (1) Manufacture, distribution, or delivery of a controlled substances
- (1m) Possession with intent to manufacture, distribute, or deliver a controlled substances

940.302 – Human trafficking

- (2) Except as provided in s. 948.051, whoever knowingly engages in trafficking is guilty of a Class D felony if all of the following apply:
- (2)(a) 1. b – The trafficking is for the purposes of a commercial sex act

939.30 – Solicitation

- If arrested for a class A felony

939.31 – Conspiracy

- If arrested for a class A felony

939.32 – Attempt

- If arrested for a class A felony



PI

jld

TODAY

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT ,**  
**TO 2011 SENATE BILL 214**

LPS - Check auto refs please

X

Gen

⓪

1 AN ACT ...; **relating to:** a program for collecting deoxyribonucleic acid analysis  
2 from adults arrested for certain criminal actions, reporting on the effectiveness  
3 of the program, and requiring the exercise of rule-making authority. ✓

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4 **SECTION 1. Nonstatutory provisions.**

5 (1) The department of justice shall administer a program requiring all persons  
6 in charge of law enforcement and tribal law enforcement agencies to obtain a  
7 biological specimen for deoxyribonucleic acid analysis from each adult arrested for  
8 a violation of section 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.19  
9 (2), (4), or (5), 940.21, 940.225, 940.235, 940.25, 940.30, 940.305, 940.31, 940.32,  
10 940.43, 940.45, 941.20, 941.28, 941.29, 941.30, 941.31, 943.011, 943.012, 943.013,

940.302,

1 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03,  
 2 948.051, 948.055, 948.07, 948.075, 948.08, 948.085, 948.30 (2), 961.41 (1) or (1m) or  
 3 940.302 or for the, or the solicitation, conspiracy, or attempt to commit a Class A  
 4 felony. The person in charge of the law enforcement or tribal law enforcement agency  
 5 shall submit the specimen to the crime laboratories for deoxyribonucleic acid  
 6 analysis and inclusion of the adult's deoxyribonucleic acid profile in the data bank  
 7 under section 165.77 (3) of the statutes. The program shall continue until February  
 8 2013 unless the attorney general determines that funding is not sufficient to  
 9 continue the program until February 2013 or that funding is sufficient to continue  
 10 the program after February 2013.

11 (2) The department of justice shall promulgate emergency rules establishing  
 12 procedures and time limits for obtaining and submitting biological specimens under  
 13 subsection (1). The rules shall specify whether a person who is required under  
 14 subsection (1) to provide a biological specimen for deoxyribonucleic acid analysis  
 15 must provide a new biological specimen if the crime laboratories already have a  
 16 biological specimen from the person or if data obtained from deoxyribonucleic acid  
 17 analysis of the person's biological specimen are already included in the data bank  
 18 under section 165.77 (3) of the statutes. Biological samples required under subsection (1) shall be  
 19 obtained and submitted as specified in the rules.

20 (3) A person whose deoxyribonucleic acid analysis data have been included  
 21 under subsection (1) in the data bank may request, in writing, expungement of the  
 22 profile included in the data bank due to the requirement under subsection (1) and  
 23 the laboratories shall purge all records and identifiable information in the data bank  
 24 pertaining to the person and destroy all samples from the person if any of the  
 25 following applies:

1 (a) The person is eligible for expungement under section 165.77<sup>✓</sup> (4) of statutes  
2 and requests expungement as provided in that section.<sup>✓</sup>

3 (b) All charges filed in connection with the arrest and all charges for which the  
4 person was required to provide a biological specimen under<sup>✓</sup> subsection (1) have been  
5 dismissed. <sup>↑ a.r.</sup>

6 (c) The trial court reached final disposition for all charges in connection with  
7 the arrest and for any charges for which the person was required to provide a  
8 biological specimen under<sup>✓</sup> subsection (1),<sup>↙ a.r.</sup> and the person was not adjudged guilty of  
9 a crime in connection with the arrest or any charge for which the person was required  
10 to provide a biological specimen under subsection (1).<sup>↘ a.r.</sup>

11 (4) Notwithstanding<sup>✓</sup> 2009 Wisconsin Act 2, section 9131 (1) (b),<sup>✓</sup> the office of  
12 justice assistance shall grant to the appropriation account under section<sup>✓</sup> 20.455 (2)  
13 (k) of the statutes<sup>✓</sup> \$1,000,000 from<sup>✓</sup> federal economic stimulus funds, as defined in  
14 2009 Wisconsin Act 2, section 9131 (1) (a),<sup>✓</sup> for the purposes described in this<sup>CS</sup> section.

15 (5) No later than May 1, 2013,<sup>✓</sup> the office of justice assistance shall submit to  
16 the joint committee on finance a report on the costs to the state and to local  
17 governments of the program under this<sup>CS</sup> section, the types of arrests and total number  
18 of arrests, the projected costs to state and local government if the program were  
19 expanded, the number of cases solved using this program that would not otherwise  
20 have been solved, any concerns or problems with the program, and any other  
21 information the office of justice assistance finds relevant to the question of  
22 continuing or expanding the program.<sup>✓</sup>

23 **SECTION 2. Effective date.**







State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBs0358/P1  
CMH:jld:rs

stays

TODAY

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
SENATE SUBSTITUTE AMENDMENT ,  
TO 2011 SENATE BILL 214**

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10 940.32, 940.43, 940.45, 941.20, 941.28, 941.29, 941.30, 941.31, 943.011, 943.012,

*of the statutes*

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4 person in charge of the law enforcement or tribal law enforcement agency shall  
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2 and requests expungement as provided in that section.

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4 person was required to provide a biological specimen under subsection (1) have been  
5 dismissed.

6 (c) The trial court reached final disposition for all charges in connection with  
7 the arrest and for any charges for which the person was required to provide a  
8 biological specimen under subsection (1), and the person was not adjudged guilty of  
9 a crime in connection with the arrest or any charge for which the person was required  
10 to provide a biological specimen under subsection (1).

11 (4) Notwithstanding 2009 Wisconsin Act 2, section 9131 (1) (b), the office of  
12 justice assistance shall grant to the appropriation account under section 20.455 (2)  
13 (k) of the statutes \$1,000,000 from federal economic stimulus funds, as defined in  
14 2009 Wisconsin Act 2, section 9131 (1) (a), for the purposes described in this SECTION.

15 (5) No later than May 1, 2013, the office of justice assistance shall submit to  
16 the joint committee on finance a report on the costs to the state and to local  
17 governments of the program under this SECTION, the types of arrests and total  
18 number of arrests, the projected costs to state and local government if the program  
19 were expanded, the number of cases solved using this program that would not  
20 otherwise have been solved, any concerns or problems with the program, and any  
21 other information the office of justice assistance finds relevant to the question of  
22 continuing or expanding the program.

23 **SECTION 2. Effective date.**





**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT ,**  
**TO 2011 SENATE BILL 214**

1     **AN ACT relating to:** a program for collecting deoxyribonucleic acid analysis from  
2             adults arrested for certain criminal actions, reporting on the effectiveness of the  
3             program, and requiring the exercise of rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4             **SECTION 1. Nonstatutory provisions.**

5             (1) The department of justice shall administer a program requiring all persons  
6             in charge of law enforcement and tribal law enforcement agencies to obtain a  
7             biological specimen for deoxyribonucleic acid analysis from each adult arrested for  
8             a violation of section 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.19  
9             (2), (4), or (5), 940.21, 940.225, 940.235, 940.25, 940.30, 940.302, 940.305, 940.31,  
10            940.32, 940.43, 940.45, 941.20, 941.28, 941.29, 941.30, 941.31, 943.011, 943.012,

1 943.013, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025,  
2 948.03, 948.051, 948.055, 948.07, 948.075, 948.08, 948.085, 948.30 (2), or 961.41 (1)  
3 or (1m) of the statutes or for the solicitation, conspiracy, or attempt to commit a Class  
4 A felony. The person in charge of the law enforcement or tribal law enforcement  
5 agency shall submit the specimen to the crime laboratories for deoxyribonucleic acid  
6 analysis and inclusion of the adult's deoxyribonucleic acid profile in the data bank  
7 under section 165.77 (3) of the statutes. The program shall continue until February  
8 2013 unless the attorney general determines that funding is not sufficient to  
9 continue the program until February 2013 or that funding is sufficient to continue  
10 the program after February 2013.

11 (2) The department of justice shall promulgate emergency rules establishing  
12 procedures and time limits for obtaining and submitting biological specimens under  
13 subsection (1). The rules shall specify whether a person who is required under  
14 subsection (1) to provide a biological specimen for deoxyribonucleic acid analysis  
15 must provide a new biological specimen if the crime laboratories already have a  
16 biological specimen from the person or if data obtained from deoxyribonucleic acid  
17 analysis of the person's biological specimen are already included in the data bank  
18 under section 165.77 (3) of the statutes. Biological samples required under  
19 subsection (1) shall be obtained and submitted as specified in the rules.

20 (3) A person whose deoxyribonucleic acid analysis data have been included  
21 under subsection (1) in the data bank may request, in writing, expungement of the  
22 profile included in the data bank due to the requirement under subsection (1) and  
23 the laboratories shall purge all records and identifiable information in the data bank  
24 pertaining to the person and destroy all samples from the person if any of the  
25 following applies:

1           (a) The person is eligible for expungement under section 165.77 (4) of statutes  
2 and requests expungement as provided in that section.

3           (b) All charges filed in connection with the arrest and all charges for which the  
4 person was required to provide a biological specimen under subsection (1) have been  
5 dismissed.

6           (c) The trial court reached final disposition for all charges in connection with  
7 the arrest and for any charges for which the person was required to provide a  
8 biological specimen under subsection (1), and the person was not adjudged guilty of  
9 a crime in connection with the arrest or any charge for which the person was required  
10 to provide a biological specimen under subsection (1).

11           (4) Notwithstanding 2009 Wisconsin Act 2, section 9131 (1) (b), the office of  
12 justice assistance shall grant to the appropriation account under section 20.455 (2)  
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15           (5) No later than May 1, 2013, the office of justice assistance shall submit to  
16 the joint committee on finance a report on the costs to the state and to local  
17 governments of the program under this SECTION, the types of arrests and total  
18 number of arrests, the projected costs to state and local government if the program  
19 were expanded, the number of cases solved using this program that would not  
20 otherwise have been solved, any concerns or problems with the program, and any  
21 other information the office of justice assistance finds relevant to the question of  
22 continuing or expanding the program.

23           **SECTION 2. Effective date.**





**Hanaman, Cathlene**

---

**From:** Hurlburt, Waylon - GOV [Waylon.Hurlburt@wisconsin.gov]  
**Sent:** Monday, February 27, 2012 8:40 AM  
**To:** Hanaman, Cathlene  
**Cc:** Woebke, Matt  
**Subject:** RE: Draft review: LRB 11s0358/P1 Topic: Collecting DNA from persons arrested for certain felonies  
Cathlene,

Can I get these changes and have the final sub sent to Senator Harsdorf's office? Thanks.

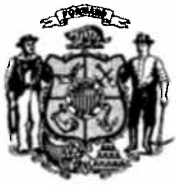
- Start the program 60 days after publication, not 30.
- Take away that DOJ "shall" promulgate a rule and just put in "may". I think DOJ Chapter 9 should be enough for them to run this program. If we need to put in a reference to that code here that is fine but I don't think this program requires a rule.
- End it February 1, 2013 giving OJA time to perform the reporting requirements to the federal government.
- Give OJA the ability to use any leftover funds for this federal reporting and the report to JFC as well.
- The OJA report to JFC should be due no later than March 31, 2013.
- Allow DOJ to create "project positions" if they need to but not FTE to implement the program. This would avoid passive review position authority requests going to JFC.

---

**From:** LRB.Legal [mailto:LRB-LegalServices@legis.wisconsin.gov]  
**Sent:** Friday, February 24, 2012 3:14 PM  
**To:** Hurlburt, Waylon - GOV  
**Subject:** Draft review: LRB 11s0358/P1 Topic: Collecting DNA from persons arrested for certain felonies

**Draft Requester: Sheila Harsdorf**

**Following is the PDF version of draft LRB 11s0358/P1.**



R2

LPS-check  
auto refs

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE SUBSTITUTE AMENDMENT ,

TO 2011 SENATE BILL 214

X

Regen

and

1

AN ACT relating to: a program for collecting deoxyribonucleic acid analysis from adults arrested for certain criminal actions, reporting on the effectiveness of the program, and requiring the exercise of rule-making authority.

2  
3

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4

**SECTION 1. Nonstatutory provisions.**

5

(1) <sup>PILOT PROGRAM TO OBTAIN DNA FOLLOWING CERTAIN ARRESTS.</sup> The department of justice shall administer a program requiring all persons

CS

6

in charge of law enforcement and tribal law enforcement agencies to obtain a

7

biological specimen for deoxyribonucleic acid analysis from each adult arrested for

8

a violation of section 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.19

9

(2), (4), or (5), 940.21, 940.225, 940.235, 940.25, 940.30, 940.302, 940.305, 940.31,

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940.32, 940.43, 940.45, 941.20, 941.28, 941.29, 941.30, 941.31, 943.011, 943.012,

1 943.013, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025,  
 2 948.03, 948.051, 948.055, 948.07, 948.075, 948.08, 948.085, 948.30 (2), or 961.41 (1)  
 3 or (1m) of the statutes or for the solicitation, conspiracy, or attempt to commit a Class  
 4 A felony. The person in charge of the law enforcement or tribal law enforcement  
 5 agency shall submit the specimen to the crime laboratories for deoxyribonucleic acid  
 6 analysis and inclusion of the adult's deoxyribonucleic acid profile in the data bank  
 7 under section 165.77 (3) of the statutes. The program shall continue until February

8 2013 unless the attorney general determines that funding is not sufficient to  
 9 continue the program until February 2013 or that funding is sufficient to continue  
 10 the program after February 2013.

11 (2) <sup>Obtaining Specimens</sup> The department of justice <sup>CS</sup> shall <sup>may</sup> promulgate emergency rules establishing  
 12 procedures and time limits for obtaining and submitting biological specimens under  
 13 subsection (1). <sup>of</sup> The rules shall <sup>and</sup> specify <sup>ing</sup> whether a person who is required under  
 14 subsection (1) to provide a biological specimen for deoxyribonucleic acid analysis  
 15 must provide a new biological specimen if the crime laboratories already have a  
 16 biological specimen from the person or if data obtained from deoxyribonucleic acid  
 17 analysis of the person's biological specimen are already included in the data bank  
 18 under section 165.77 (3) of the statutes. Biological samples required under

19 subsection (1) shall be obtained and submitted as specified in the rules.

20 (3) <sup>EXPUNGEMENT REQUEST</sup> A person whose deoxyribonucleic acid analysis data have been included  
 21 under subsection (1) in the data bank may request, in writing, expungement of the  
 22 profile included in the data bank due to the requirement under subsection (1) and  
 23 the laboratories shall purge all records and identifiable information in the data bank  
 24 pertaining to the person and destroy all samples from the person if any of the  
 25 following applies:

1 (a) The person is eligible for expungement under section 165.77 (4) of statutes  
2 and requests expungement as provided in that section.

3 (b) All charges filed in connection with the arrest and all charges for which the  
4 person was required to provide a biological specimen under subsection (1) have been  
5 dismissed.

6 (c) The trial court reached final disposition for all charges in connection with  
7 the arrest and for any charges for which the person was required to provide a  
8 biological specimen under subsection (1), and the person was not adjudged guilty of  
9 a crime in connection with the arrest or any charge for which the person was required  
10 to provide a biological specimen under subsection (1).

11 (4) (Notwithstanding 2009 Wisconsin Act 2, section 9131 (1) (b) the office of  
12 justice assistance shall grant to the appropriation account under section 20.455 (2)

13 (k) of the statutes \$1,000,000 from federal economic stimulus funds, as defined in  
14 2009 Wisconsin Act 2, section 9131 (1) (a) for the purposes described in this SECTION.

15 (5) No later than ~~May~~ <sup>March 31</sup>, 2013, the office of justice assistance shall submit to  
16 the joint committee on finance a report on the costs to the state and to local  
17 governments of the program under this SECTION, the types of arrests and total  
18 number of arrests, the projected costs to state and local government if the program  
19 were expanded, the number of cases solved using this program that would not  
20 otherwise have been solved, any concerns or problems with the program, and any  
21 other information the office of justice assistance finds relevant to the question of  
22 continuing or expanding the program.

23 SECTION 2. Effective date.

Handwritten notes and annotations: "INS 3-11" with an arrow pointing to line 10; "9 (b)" above line 11; "FUNDING" with an arrow pointing to line 11; "CS" in a circle next to line 11; "41." in a box with an arrow pointing to line 11; "REPORT TO" with an arrow pointing to line 15; "March 31" written above line 15; "CS" in a circle next to line 15; "INS 3-15" in a circle with a checkmark at the bottom.

3rd  
~~2nd~~<sup>e</sup>

1 (1) This act takes effect on the first day of the ~~2nd~~ month beginning after  
2 publication.

3 (END)

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0358/p2ins  
CMH:.....

1           Insert 3-11

2           (a) In this subsection, "federal economic stimulus funds" has the meaning given  
3 in 2009 Wisconsin Act 2, section 9131 (1) (a). ✓

4

5           Insert 3-15

6           1. The office of justice assistance may use federal economic stimulus funds not  
7 granted to the department of justice under subd. 1. for the purposes described in  
8 subsection (b) and for any federal reporting requirements associated with the federal  
9 economic stimulus funds. ✓

10           (1) PROJECT POSITIONS. There is authorized for the department of justice for the  
11 implementation of the program under this SECTION, project positions, to be funded  
12 from section 20.455 (2) (k) of the statutes, the number of which may be determined  
13 by the department of justice. ✓

subdivision  
A.R.

A.R.



State of Wisconsin  
2011 - 2012 LEGISLATURE



stays

LRBs0358/P2  
CMH:jld:ph

TODAY  
please

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT ,**  
**TO 2011 SENATE BILL 214**

Regen

1 **AN ACT relating to:** a program for collecting deoxyribonucleic acid analysis from  
2 adults arrested for certain criminal actions and reporting on the effectiveness  
3 of the program.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4 **SECTION 1. Nonstatutory provisions.**

5 (1) PILOT PROGRAM TO OBTAIN DNA FOLLOWING CERTAIN ARRESTS. The department  
6 of justice shall administer a program requiring all persons in charge of law  
7 enforcement and tribal law enforcement agencies to obtain a biological specimen for  
8 deoxyribonucleic acid analysis from each adult arrested for a violation of section  
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4 for the solicitation, conspiracy, or attempt to commit a Class A felony. The person in  
5 charge of the law enforcement or tribal law enforcement agency shall submit the  
6 specimen to the crime laboratories for deoxyribonucleic acid analysis and inclusion  
7 of the adult's deoxyribonucleic acid profile in the data bank under section 165.77 (3)  
8 of the statutes. The program shall continue until February 1, 2013.

9 (2) OBTAINING SPECIMENS. The department of justice may promulgate  
10 emergency rules establishing procedures and time limits for obtaining and  
11 submitting biological specimens under subsection (1) and specifying whether a  
12 person who is required under subsection (1) to provide a biological specimen for  
13 deoxyribonucleic acid analysis must provide a new biological specimen if the crime  
14 laboratories already have a biological specimen from the person or if data obtained  
15 from deoxyribonucleic acid analysis of the person's biological specimen are already  
16 included in the data bank under section 165.77 (3) of the statutes.

17 (3) EXPUNGEMENT REQUEST. A person whose deoxyribonucleic acid analysis data  
18 have been included under subsection (1) in the data bank may request, in writing,  
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21 information in the data bank pertaining to the person and destroy all <sup>such</sup> samples from  
22 the person if any of the following applies:

23 (a) The person is eligible for expungement under section 165.77 (4) of statutes  
24 and requests expungement as provided in that section.

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2 person was required to provide a biological specimen under subsection (1) have been  
3 dismissed.

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5 the arrest and for any charges for which the person was required to provide a  
6 biological specimen under subsection (1), and the person was not adjudged guilty of  
7 a crime in connection with the arrest or any charge for which the person was required  
8 to provide a biological specimen under subsection (1).

9 (4) FUNDING. (a) In this subsection, "federal economic stimulus funds" has the  
10 meaning given in 2009 Wisconsin Act 2, section 9131 (1) (a).

11 (b) Notwithstanding 2009 Wisconsin Act 2, section 9131 (1) (b):

12 1. The office of justice assistance shall grant to the appropriation account under  
13 section 20.455 (2) (k) of the statutes \$1,000,000 from federal economic stimulus funds  
14 for the purposes described in this SECTION.

15 2. The office of justice assistance may use federal economic stimulus funds not  
16 granted to the department of justice under subdivision 1. for the purposes described  
17 in subsection (6) and for any federal reporting requirements associated with the  
18 federal economic stimulus funds.

19 (5) PROJECT POSITIONS. There is authorized for the department of justice for the  
20 implementation of the program under this SECTION, project positions, to be funded  
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22 by the department of justice.

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1 number of arrests, the projected costs to state and local government if the program  
2 were expanded, the number of cases solved using this program that would not  
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4 other information the office of justice assistance finds relevant to the question of  
5 continuing or expanding the program.

6 **SECTION 2. Effective date.**

7 (1) This act takes effect on the first day of the 3rd month beginning after  
8 publication.

9 (END)

**Hanaman, Cathlene**

---

**From:** Hurlburt, Waylon - GOV [Waylon.Hurlburt@wisconsin.gov]  
**Sent:** Monday, February 27, 2012 11:55 AM  
**To:** Hanaman, Cathlene  
**Cc:** Wuebke, Matt  
**Subject:** RE: Draft review: LRB 11s0358/P1 Topic: Collecting DNA from persons arrested for certain felonies

**More tweaks:**

Page 3, line 12:

to ~~the appropriation account under section 20.455 (2) (k) of the statutes~~ the Department of Justice

Page 3, line 18:

number of arrests, the ~~projected~~ estimated costs to ~~state and local government~~ law enforcement if the program

Page 3, line 19:

~~cases solved using this program that would not otherwise have been solved~~ DNA matches

Page 3, line 22:

continuing or expanding the program to other arrests.

---

**From:** Hurlburt, Waylon - GOV  
**Sent:** Monday, February 27, 2012 8:40 AM  
**To:** Hanaman, Cathlene - LEGIS  
**Cc:** Wuebke, Matt - LEGIS  
**Subject:** RE: Draft review: LRB 11s0358/P1 Topic: Collecting DNA from persons arrested for certain felonies

Cathlene,

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---

**From:** LRB.Legal [<mailto:LRB-LegalServices@legis.wisconsin.gov>]

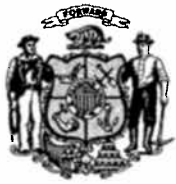
**Sent:** Friday, February 24, 2012 3:14 PM

**To:** Hurlburt, Waylon - GOV

**Subject:** Draft review: LRB 11s0358/P1 Topic: Collecting DNA from persons arrested for certain felonies

**Draft Requester: Sheila Harsdorf**

**Following is the PDF version of draft LRB 11s0358/P1.**



*Adams*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
SENATE SUBSTITUTE AMENDMENT,  
TO 2011 SENATE BILL 214**

*✓*

*Regen*

1 **AN ACT relating to:** a program for collecting deoxyribonucleic acid analysis from  
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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

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5 (1) PILOT PROGRAM TO OBTAIN DNA FOLLOWING CERTAIN ARRESTS. The department  
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1 941.20, 941.28, 941.29, 941.30, 941.31, 943.011, 943.012, 943.013, 943.02, 943.06,  
2 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03, 948.051, 948.055,  
3 948.07, 948.075, 948.08, 948.085, 948.30 (2), or 961.41 (1) or (1m) of the statutes or  
4 for the solicitation, conspiracy, or attempt to commit a Class A felony. The person in  
5 charge of the law enforcement or tribal law enforcement agency shall submit the  
6 specimen to the crime laboratories for deoxyribonucleic acid analysis and inclusion  
7 of the adult's deoxyribonucleic acid profile in the data bank under section 165.77 (3)  
8 of the statutes. The program shall continue until February 1, 2013.

9 (2) OBTAINING SPECIMENS. The department of justice may promulgate  
10 emergency rules establishing procedures and time limits for obtaining and  
11 submitting biological specimens under subsection (1) and specifying whether a  
12 person who is required under subsection (1) to provide a biological specimen for  
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3 dismissed.

4 (c) The trial court reached final disposition for all charges in connection with  
5 the arrest and for any charges for which the person was required to provide a  
6 biological specimen under subsection (1), and the person was not adjudged guilty of  
7 a crime in connection with the arrest or any charge for which the person was required  
8 to provide a biological specimen under subsection (1).

9 (4) FUNDING.

10 (a) In this subsection, "federal economic stimulus funds" has the meaning given  
11 in 2009 Wisconsin Act 2, section 9131 (1) (a).

12 (b) Notwithstanding 2009 Wisconsin Act 2, section 9131 (1) (b),  
13 1. The office of justice assistance shall grant to the appropriation account under  
14 section 20.455 (2) (k) of the statutes \$1,000,000 from federal economic stimulus funds  
15 for the purposes described in this SECTION.

16 2. The office of justice assistance may use federal economic stimulus funds not  
17 granted to the department of justice under subdivision 1. for the purposes described  
18 in subsection (6) and for any federal reporting requirements associated with the  
19 federal economic stimulus funds.

20 (5) PROJECT POSITIONS. There is authorized for the department of justice for the  
21 implementation of the program under this SECTION, project positions, to be funded  
22 from section 20.455 (2) (k) of the statutes, the number of which may be determined  
23 by the department of justice.

24 (6) REPORT. No later than March 31, 2013, the office of justice assistance shall  
25 submit to the joint committee on finance a report on the costs to the state and to local

department of justice

keep colon



1 governments of the program under this SECTION, the types of arrests and total  
 2 number of arrests, the ~~projected~~ <sup>estimated</sup> costs to state and local government if the program  
 3 were expanded, the number of ~~cases solved using~~ <sup>or</sup> this program ~~that would not~~  
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 5 other information the office of justice assistance finds relevant to the question of  
 6 continuing or expanding the program.

**SECTION 2. Effective date.**

7 (1) This act takes effect on the first day of the 3rd month beginning after  
 8 publication.  
 9

(END)

deoxyribonucleic acid matches made  
under  
under

to other  
arrests  
arrests

law enforcement

**Hanaman, Cathlene**

**From:** Hurlburt, Waylon - GOV [Waylon.Hurlburt@wisconsin.gov]  
**Sent:** Monday, February 27, 2012 3:43 PM  
**To:** Hanaman, Cathlene  
**Cc:** Woebke, Matt  
**Subject:** FW: Draft review: LRB 11s0358/P3 Topic: Collecting DNA from persons arrested for certain felonies  
**Attachments:** LRBs0358\_P3.pdf

Senator Harsdorf's office and the budget office have these changes.

Budget office:

**Eliminate page 3, line 20 section (5) "Project Positions".**

Harsdorf's Office:

1. **Clarify that the DNA sample from arrestees remains with DOJ in the data bank permanently. Eliminate any confusion that the DNA would be expunged upon 2/1/2013 pilot program expiration date.**
  2. **Ensure that the amendment sets forth that DOJ could end the pilot program if funds are exhausted or continue of funds are available.**
  3. **Add statutory language for an appropriation line for DOJ for this program in future fiscal years (FY 2013-14).**
  4. **Allow those arrested by law enforcement on one of the identified offenses, but not charged by a DA, to apply for expungement after one year. This is in Senator Harsdorf's SB 214 draft under the expungement process – which is attached below for your reference.**
- c. At least one year has passed since the arrest and the person has not been charged with a crime in connection with the arrest, and the person was not required to provide a biological specimen under s. 970.02 (8).

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**From:** LRB.Legal [mailto:LRB-LegalServices@legis.wisconsin.gov]  
**Sent:** Monday, February 27, 2012 3:13 PM  
**To:** Hurlburt, Waylon - GOV  
**Subject:** Draft review: LRB 11s0358/P3 Topic: Collecting DNA from persons arrested for certain felonies

**Draft Requester: Sheila Harsdorf**

**Following is the PDF version of draft LRB 11s0358/P3.**



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBs0358/P8  
CMH:jld:jm

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TODAY

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E. J. G. F.

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT,**  
**TO 2011 SENATE BILL 214**

Regen

1 **AN ACT relating to:** a program for collecting deoxyribonucleic acid analysis from  
2 adults arrested for certain criminal actions and reporting on the effectiveness  
3 of the program.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4 **SECTION 1. Nonstatutory provisions.**  
5 (1) PILOT PROGRAM TO OBTAIN DNA FOLLOWING CERTAIN ARRESTS. The department  
6 of justice shall administer a program requiring all persons in charge of law  
7 enforcement and tribal law enforcement agencies to obtain a biological specimen for  
8 deoxyribonucleic acid analysis from each adult arrested for a violation of section  
9 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.19 (2), (4), or (5), 940.21,  
10 940.225, 940.235, 940.25, 940.30, 940.302, 940.305, 940.31, 940.32, 940.43, 940.45,

A.R.

no # Except as provided in subsection (3), all specimens submitted to the crime laboratories under this subsection may not be removed from the data bank without regard to the continuance of the program

1 941.20, 941.28, 941.29, 941.30, 941.31, 943.011, 943.012, 943.013, 943.02, 943.06,  
2 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03, 948.051, 948.055,  
3 948.07, 948.075, 948.08, 948.085, 948.30 (2), or 961.41 (1) or (1m) of the statutes or  
4 for the solicitation, conspiracy, or attempt to commit a Class A felony. The person in  
5 charge of the law enforcement or tribal law enforcement agency shall submit the  
6 specimen to the crime laboratories for deoxyribonucleic acid analysis and inclusion  
7 of the adult's deoxyribonucleic acid profile in the data bank under section 165.77 (3)  
8 of the statutes. The program shall continue until February 1, 2013

INS 2-8

9 (2) OBTAINING SPECIMENS. The department of justice may promulgate  
10 emergency rules establishing procedures and time limits for obtaining and  
11 submitting biological specimens under subsection (1) and specifying whether a  
12 person who is required under subsection (1) to provide a biological specimen for  
13 deoxyribonucleic acid analysis must provide a new biological specimen if the crime  
14 laboratories already have a biological specimen from the person or if data obtained  
15 from deoxyribonucleic acid analysis of the person's biological specimen are already  
16 included in the data bank under section 165.77 (3) of the statutes.

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17 (3) EXPUNGEMENT REQUEST. A person whose deoxyribonucleic acid analysis data  
18 have been included under subsection (1) in the data bank may request, in writing,  
19 expungement of the profile included in the data bank due to the requirement under  
20 subsection (1) and the laboratories shall purge all such records and identifiable  
21 information in the data bank pertaining to the person and destroy all such samples  
22 from the person if any of the following applies:

23 (a) The person is eligible for expungement under section 165.77 (4) of statutes  
24 and requests expungement as provided in that section.

*At least one year has passed since the arrest and the person has not been charged with a crime in connection with the arrest.*

1 ~~(#)~~ All charges filed in connection with the arrest and all charges for which the  
2 person was required to provide a biological specimen under subsection (1) have been  
3 dismissed.

4 ~~(#)~~ The trial court reached final disposition for all charges in connection with  
5 the arrest and for any charges for which the person was required to provide a  
6 biological specimen under subsection (1), and the person was not adjudged guilty of  
7 a crime in connection with the arrest or any charge for which the person was required  
8 to provide a biological specimen under subsection (1).

9 (4) FUNDING.

10 (a) In this subsection, "federal economic stimulus funds" has the meaning given  
11 in 2009 Wisconsin Act 2, section 9131 (1) (a).

12 (b) Notwithstanding 2009 Wisconsin Act 2, section 9131 (1):

13 1. The office of justice assistance shall grant to the department of justice  
14 \$1,000,000 from federal economic stimulus funds for the purposes described in this  
15 SECTION.

16 2. The office of justice assistance may use federal economic stimulus funds not  
17 granted to the department of justice under subdivision 1. for the purposes described  
18 in subsection (6) and for any federal reporting requirements associated with the  
19 federal economic stimulus funds.

20 (5) PROJECT POSITIONS. There is authorized for the department of justice for the  
21 implementation of the program under this SECTION, project positions, the number of  
22 which may be determined by the department of justice.

23 ~~(#)~~ (6) REPORT. No later than March 31, 2013, the office of justice assistance shall  
24 submit to the joint committee on finance a report on the costs to the state and to local  
25 governments of the program under this SECTION, the types of arrests and total

1 number of arrests, the estimated costs to law enforcement if the program were  
2 expanded, the number of deoxyribonucleic acid matches made under this program,  
3 any concerns or problems with the program, and any other information the office of  
4 justice assistance finds relevant to the question of continuing or expanding the  
5 program to other arrests.

of  
the program

6 **SECTION 2. Effective date.**

7 (1) This act takes effect on the first day of the 3rd month beginning after  
8 publication.

9 (END)

1 943.013, 943.02, 943.06, 943.10 (2), 943.23 (1g), 943.32 (2), 948.02 (1) or (2), 948.025,  
 2 948.03, 948.051, 948.055, 948.07, 948.075, 948.08, 948.085, 948.30 (2), or 961.41 (1)  
 3 or (1m) of the statutes or for the solicitation, conspiracy, or attempt to commit a Class  
 4 A felony. The person in charge of the law enforcement or tribal law enforcement  
 5 agency shall submit the specimen to the crime laboratories for deoxyribonucleic acid  
 6 analysis and inclusion of the adult's deoxyribonucleic acid profile in the data bank  
 7 under section 165.77 (3) of the statutes. The program shall continue until February  
 8 2013 unless the attorney general determines that funding is not sufficient to  
 9 continue the program until February 2013, or that funding is sufficient to continue  
 10 the program after February 2013.

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2-8

11 (2) The department of justice shall promulgate emergency rules establishing  
 12 procedures and time limits for obtaining and submitting biological specimens under  
 13 subsection (1). The rules shall specify whether a person who is required under  
 14 subsection (1) to provide a biological specimen for deoxyribonucleic acid analysis  
 15 must provide a new biological specimen if the crime laboratories already have a  
 16 biological specimen from the person or if data obtained from deoxyribonucleic acid  
 17 analysis of the person's biological specimen are already included in the data bank  
 18 under section 165.77 (3) of the statutes. Biological samples required under  
 19 subsection (1) shall be obtained and submitted as specified in the rules.

20 (3) A person whose deoxyribonucleic acid analysis data have been included  
 21 under subsection (1) in the data bank may request, in writing, expungement of the  
 22 profile included in the data bank due to the requirement under subsection (1) and  
 23 the laboratories shall purge all records and identifiable information in the data bank  
 24 pertaining to the person and destroy all samples from the person if any of the  
 25 following applies:



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**TO 2011 SENATE BILL 214**

No  
changes  
Now

Regen

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5 charge of the law enforcement or tribal law enforcement agency shall submit the  
6 specimen to the crime laboratories for deoxyribonucleic acid analysis and inclusion  
7 of the adult's deoxyribonucleic acid profile in the data bank under section 165.77 (3)  
8 of the statutes. The program shall continue until February 1, 2013, unless the  
9 attorney general determines that funding is not sufficient to continue the program  
10 until February 1, 2013, or that funding is sufficient to continue the program after  
11 February 1, 2013. Except as provided in subsection (3), without regard to the  
12 continuation of the program, all specimens submitted to the crime laboratories under  
13 this subsection may not be removed from the data bank.

14 (2) OBTAINING SPECIMENS. The department of justice may promulgate  
15 emergency rules establishing procedures and time limits for obtaining and  
16 submitting biological specimens under subsection (1) and specifying whether a  
17 person who is required under subsection (1) to provide a biological specimen for  
18 deoxyribonucleic acid analysis must provide a new biological specimen if the crime  
19 laboratories already have a biological specimen from the person or if data obtained  
20 from deoxyribonucleic acid analysis of the person's biological specimen are already  
21 included in the data bank under section 165.77 (3) of the statutes.

22 (3) EXPUNGEMENT REQUEST. A person whose deoxyribonucleic acid analysis data  
23 have been included under subsection (1) in the data bank may request, in writing,  
24 expungement of the profile included in the data bank due to the requirement under  
25 subsection (1) and the laboratories shall purge all such records and identifiable

1 information in the data bank pertaining to the person and destroy all such samples  
2 from the person if any of the following applies:

3 (a) The person is eligible for expungement under section 165.77 (4) of statutes  
4 and requests expungement as provided in that section.

5 (b) At least one year has passed since the arrest and the person has not been  
6 charged with a crime in connection with the arrest.

7 (c) All charges filed in connection with the arrest and all charges for which the  
8 person was required to provide a biological specimen under subsection (1) have been  
9 dismissed.

10 (d) The trial court reached final disposition for all charges in connection with  
11 the arrest and for any charges for which the person was required to provide a  
12 biological specimen under subsection (1), and the person was not adjudged guilty of  
13 a crime in connection with the arrest or any charge for which the person was required  
14 to provide a biological specimen under subsection (1).

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16 (a) In this subsection, "federal economic stimulus funds" has the meaning given  
17 in 2009 Wisconsin Act 2, section 9131 (1) (a).

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19 1. The office of justice assistance shall grant to the department of justice  
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21 SECTION.

22 2. The office of justice assistance may use federal economic stimulus funds not  
23 granted to the department of justice under subdivision 1. for the purposes described  
24 in subsection (5) and for any federal reporting requirements associated with the  
25 federal economic stimulus funds.

