

2013 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB447)

Received: 3/6/2014 Received By: phurley
Wanted: As time permits Same as LRB:
For: Joseph Leibham (608) 266-2056 By/Representing:
May Contact: Drafter: phurley
Subject: Correctional System - jails Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Leibham@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Strip searches for parole, probation, and extended supervision violators

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>
/?	phurley 3/6/2014	scalvin 3/6/2014		_____			
/P1	phurley 3/12/2014		jfrantze 3/6/2014	_____	sbasford 3/6/2014		
/1		scalvin 3/12/2014	jfrantze 3/12/2014	_____	srose 3/12/2014	srose 3/12/2014	

FE Sent For:

<END>

2013 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB447)

Received: 3/6/2014 Received By: phurley
Wanted: As time permits Same as LRB:
For: Joseph Leibham (608) 266-2056 By/Representing:
May Contact: Drafter: phurley
Subject: Correctional System - jails Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Sen.Leibham@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Strip searches for parole, probation, and extended supervision violators ✓

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>
/?	phurley 3/6/2014	scalvin 3/6/2014		_____			
/P1			jfrantze 3/6/2014	_____	sbasford 3/6/2014		
FE Sent For:		1 sac 03/12/2014	1 sac 03/12/2014		to 3/12		

<END>

2013 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB447)

Received: 3/6/2014 Received By: phurley
 Wanted: As time permits Same as LRB:
 For: Joseph Leibham (608) 266-2056 By/Representing:
 May Contact: Drafter: phurley
 Subject: Correctional System - jails Addl. Drafters:
 Extra Copies:

Submit via email: YES
 Requester's email: Sen.Leibham@legis.wisconsin.gov
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

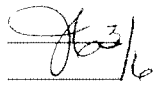
Topic:

Strip searches for parole, probation, and extended supervision violators ✓

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/?	phurley	/PI sac 03/06/2014	/PI sac 03/06/2014				

FE Sent For:

<END>

Hurley, Peggy

From: Petrovich, Luke
Sent: Thursday, March 06, 2014 2:59 PM
To: Hurley, Peggy
Cc: Soper, John
Subject: RE: SSA 2 to SB 447

#1 – Yes. Similar to our discussion yesterday and the language the public defender provided, I think it is clearer to state something like – except a person identified under subd. 1., 2., 3., or 4., etc.

#2 – Yes. Eliminate the juvenile provisions.

Luke Petrovich

Office of Senator Joe Leibham

9th Senate District
(608) 266-2056

From: Hurley, Peggy
Sent: Thursday, March 06, 2014 2:41 PM
To: Petrovich, Luke
Cc: Soper, John
Subject: RE: SSA 2 to SB 447

Thanks, Luke.

I do have two questions. When I change the definition for the “5. people” to people who are being held in connection with a parole, probation, or extended supervision violation, I think I need to keep the “who is not a person described in subd. 1., 2., 3., or 4.,” language. Do you agree?

On the other hand, I don’t think I need to keep the language that excludes juveniles, because a juvenile would only be in that category if he or she was violating a condition of parole, probation, or extended supervision. Do you agree?

Peggy

From: Petrovich, Luke
Sent: Thursday, March 06, 2014 1:46 PM
To: Hurley, Peggy
Cc: Soper, John
Subject: SSA 2 to SB 447

Hi Peggy,

Could you please draft a preliminary substitute amendment to SB 447. The intent is to limit the new searches to individuals on probation and parole. We would still like to keep most aspects of the assembly amendments.

- Change a(5) from authorizing strip searches on everyone to authorizing strip search of all people being held because of a violation of probation or parole under Sec. _____
- Maintain all changes from AA4 & AA8 to AB 556 except the "12 hour" rule, which you should remove
- Elements of AA8 that applied only to a(5) still apply only to the new a(5)

If you have any questions, please let John and I know. Once we get a final version of the new substitute, we would then introduce the same amendment to AB 556.

Thanks,

Luke Petrovich

Office of Senator Joe Leibham

9th Senate District

(608) 266-2056



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0369A

PJH:sac

steps

SENATE SUBSTITUTE AMENDMENT,
TO SENATE BILL 447

50374/P1

RM/R

today, please
one change on pg 2

1 AN ACT to renumber and amend 968.255 (2) (a); to amend 968.255 (1) (a),
2 968.255 (1) (b), 968.255 (2) (intro.), 968.255 (2) (b), (c), (d) and (e) and 968.255
3 (6); and to create 968.255 (1) (a) 5., 968.255 (1) (ag), 968.255 (1) (ar) and
4 968.255 (2) (ag) of the statutes; relating to: strip searches.

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

5 SECTION 1. 968.255 (1) (a) of the statutes is amended to read:
6 968.255 (1) (a) "Detained" "Detainee" means any of the following:
7 1. Arrested A person arrested for any felony.
8 2. Arrested A person arrested for any misdemeanor under s. 167.30 (1), 940.19,
9 941.20 (1), 941.23, 941.237, 941.24, 948.60, or 948.61.
10 3. Taken A person taken into custody under s. 938.19 and there are reasonable
11 grounds to believe the juvenile has committed an act which if committed by an adult
12 would be covered under subd. 1. or 2.

1 4. ~~Arrested~~ A person arrested for any misdemeanor not specified in subd. 2.,
2 any other violation of state law punishable by forfeiture or any local ordinance if
3 there is probable cause to believe the person is concealing a weapon or a thing which
4 may constitute evidence of the offense for which he or she is detained.

5 **SECTION 2.** 968.255 (1) (a) 5. of the statutes is created to read:

6 **968.255 (1) (a) 5.** A person arrested or otherwise lawfully detained or taken into
7 custody, who is not a person described in subd. 1., 2., or 3., if he or she has been
8 incarcerated, imprisoned or otherwise detained in a jail or prison for more than 12
9 hours, and he or she will be held within the jail or prison with one or more other
10 persons. For the purpose of this subdivision, "detainee" does not include a juvenile
11 who is taken into custody under s. 938.19 and held in custody under s. 938.209.

12 **SECTION 3.** 968.255 (1) (ag) of the statutes is created to read:

13 968.255 (1) (ag) "Jail" includes municipal prisons and rehabilitation facilities
14 established under s. 59.53 (8) by whatever name they are known, but does not include
15 lockup facilities.

16 **SECTION 4.** 968.255 (1) (ar) of the statutes is created to read:

17 968.255 (1) (ar) "Lockup facilities" means those facilities of a temporary place
18 of detention at a police station that are used exclusively to hold persons under arrest
19 until they can be brought before a court and that are not used to hold persons pending
20 trial who have appeared in court or have been committed to imprisonment for
21 nonpayment of fines or forfeitures.

22 **SECTION 5.** 968.255 (1) (b) of the statutes is amended to read:

23 968.255 (1) (b) "Strip search" means a search in which a ~~detained person's~~
24 detainee's genitals, pubic area, buttock or anus, or a ~~detained female person's~~ female
25 detainee's breast, is uncovered and either is exposed to view or is touched by a person

Insert
7

5/13

Handwritten flourish

1 conducting the search, except that if the detainee is a person defined in par. (a) 5.,
2 “strip search” means a search in which a detainee’s genitals, pubic area, buttock or
3 anus, or a female detainee’s breast, is uncovered and exposed to view but is not
4 touched by a person conducting the search unless the touching is necessary to gain
5 the detainee’s cooperation with the search or unless the touching is necessary to
6 assist a disabled detainee’s cooperation with the search.

7 **SECTION 6.** 968.255 (2) (intro.) of the statutes is amended to read:

8 968.255 (2) (intro.) No person may ~~be the subject of~~ conduct a strip search
9 unless ~~he or she is a detained person and if~~ all of the following apply:

10 **SECTION 7.** 968.255 (2) (a) of the statutes is renumbered 968.255 (2) (am) and
11 amended to read:

12 968.255 (2) (am) The person conducting the search is of the same sex as the
13 ~~person detained~~ detainee, unless the search is a body cavity search conducted under
14 sub. (3);.

15 **SECTION 8.** 968.255 (2) (ag) of the statutes is created to read:

16 968.255 (2) (ag) The person subject to the search is a detainee.

17 **SECTION 9.** 968.255 (2) (b), (c), (d) and (e) of the statutes are amended to read:

18 968.255 (2) (b) The ~~detained person~~ detainee is not exposed to the view of any
19 person not conducting the search;.

20 (c) The search is not reproduced through a visual or sound recording;.

21 (d) A person conducting the search has obtained the prior written permission
22 of the chief, sheriff or law enforcement administrator of the jurisdiction where the
23 person is detained, or his or her designee, unless there is probable cause to believe
24 that the ~~detained person~~ detainee is concealing a weapon; and.

1 (e) A person conducting the search prepares a report identifying the person
2 detained, all persons conducting the search, the time, date and place of the search
3 and the written authorization required by par. (d), and provides a copy of the report
4 to the person detained detainee.

5 **SECTION 10.** 968.255 (6) of the statutes is amended to read:

6 968.255 (6) ~~A Each law enforcement agency, as defined in s. 165.83 (1) (b), may~~
7 ~~promulgate rules and each facility where a strip search may be conducted pursuant~~
8 ~~to this section, shall establish written policies and procedures concerning strip~~
9 ~~searches which at least meet the minimum requirements of this section and shall~~
10 ~~provide annual training regarding the policies and procedures to any employee or~~
11 ~~agent of the agency or facility who may conduct a strip search.~~

12 (END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0374?ins

.....

INSERT:

^{not} A person who is not a person ~~described~~ in subd. 1., 2., 3., or 4., and who is arrested or otherwise lawfully detained or taken into custody for a violation of a rule or condition of probation, parole, or extended supervision.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT ,
TO SENATE BILL 447

to say

gun cat

1 AN ACT *to renumber and amend* 968.255 (2) (a); *to amend* 968.255 (1) (a),
2 968.255 (1) (b), 968.255 (2) (intro.), 968.255 (2) (b), (c), (d) and (e) and 968.255
3 (6); and *to create* 968.255 (1) (a) 5., 968.255 (1) (ag), 968.255 (1) (ar) and
4 968.255 (2) (ag) of the statutes; **relating to:** strip searches.

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

5 SECTION 1. 968.255 (1) (a) of the statutes is amended to read:
6 968.255 (1) (a) "Detained" "Detainee" means any of the following:
7 1. Arrested A person arrested for any felony.
8 2. Arrested A person arrested for any misdemeanor under s. 167.30 (1), 940.19,
9 941.20 (1), 941.23, 941.237, 941.24, 948.60, or 948.61.

1 3. ~~Taken~~ A person taken into custody under s. 938.19 and there are reasonable
2 grounds to believe the juvenile has committed an act which if committed by an adult
3 would be covered under subd. 1. or 2.

4 4. ~~Arrested~~ A person arrested for any misdemeanor not specified in subd. 2.,
5 any other violation of state law punishable by forfeiture or any local ordinance if
6 there is probable cause to believe the person is concealing a weapon or a thing which
7 may constitute evidence of the offense for which he or she is detained.

8 **SECTION 2.** 968.255 (1) (a) 5. of the statutes is created to read:

9 968.255 (1) (a) 5. A person who is not a person defined in subd. 1., 2., 3., or 4.,
10 and who is arrested or otherwise lawfully detained or taken into custody for a
11 violation of a rule or condition of probation, parole, or extended supervision.

Insert 2.11

12 **SECTION 3.** 968.255 (1) (ag) of the statutes is created to read:

13 968.255 (1) (ag) "Jail" includes municipal prisons and rehabilitation facilities
14 established under s. 59.53 (8) by whatever name they are known, but does not include
15 lockup facilities.

16 **SECTION 4.** 968.255 (1) (ar) of the statutes is created to read:

17 968.255 (1) (ar) "Lockup facilities" means those facilities of a temporary place
18 of detention at a police station that are used exclusively to hold persons under arrest
19 until they can be brought before a court and that are not used to hold persons pending
20 trial who have appeared in court or have been committed to imprisonment for
21 nonpayment of fines or forfeitures.

22 **SECTION 5.** 968.255 (1) (b) of the statutes is amended to read:

23 968.255 (1) (b) "Strip search" means a search in which a ~~detained person's~~
24 detainee's genitals, pubic area, buttock or anus, or a ~~detained female person's~~ female
25 detainee's breast, is uncovered and either is exposed to view or is touched by a person

1 conducting the search, except that if the detainee is a person defined in par. (a) 5.,
2 “strip search” means a search in which a detainee’s genitals, pubic area, buttock or
3 anus, or a female detainee’s breast, is uncovered and exposed to view but is not
4 touched by a person conducting the search unless the touching is necessary to gain
5 the detainee’s cooperation with the search or unless the touching is necessary to
6 assist a disabled detainee’s cooperation with the search.

7 **SECTION 6.** 968.255 (2) (intro.) of the statutes is amended to read:

8 968.255 (2) (intro.) No person may be ~~the subject of~~ conduct a strip search
9 unless ~~he or she is a detained person and if~~ all of the following apply:

10 **SECTION 7.** 968.255 (2) (a) of the statutes is renumbered 968.255 (2) (am) and
11 amended to read:

12 968.255 (2) (am) The person conducting the search is of the same sex as the
13 ~~person detained~~ detainee, unless the search is a body cavity search conducted under
14 sub. (3);.

15 **SECTION 8.** 968.255 (2) (ag) of the statutes is created to read:

16 968.255 (2) (ag) The person subject to the search is a detainee.

17 **SECTION 9.** 968.255 (2) (b), (c), (d) and (e) of the statutes are amended to read:

18 968.255 (2) (b) ~~The detained person~~ detainee is not exposed to the view of any
19 person not conducting the search;.

20 (c) The search is not reproduced through a visual or sound recording;.

21 (d) A person conducting the search has obtained the prior written permission
22 of the chief, sheriff or law enforcement administrator of the jurisdiction where the
23 person is detained, or his or her designee, unless there is probable cause to believe
24 that the ~~detained person~~ detainee is concealing a weapon; ~~and.~~

1 (e) A person conducting the search prepares a report identifying the person
2 detained, all persons conducting the search, the time, date and place of the search
3 and the written authorization required by par. (d), and provides a copy of the report
4 to the ~~person detained~~ detainee.

5 **SECTION 10.** 968.255 (6) of the statutes is amended to read:

6 968.255 (6) ~~A~~ Each law enforcement agency, as defined in s. 165.83 (1) (b), ~~may~~
7 ~~promulgate rules~~ and each facility where a strip search may be conducted pursuant
8 to this section, shall establish written policies and procedures concerning strip
9 searches which at least meet the minimum requirements of this section and shall
10 provide annual training regarding the policies and procedures to any employee or
11 agent of the agency or facility who may conduct a strip search.

12 (END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0374/lins
PJH:sac:jf

1 INSERT 2.11:
2) and who has been incarcerated, imprisoned, or otherwise detained in a jail or
3 prison for at least 12 hours