

2013 DRAFTING REQUEST

Senate Amendment (SA-SB373)

Received: 3/6/2014 Received By: chanaman
 Wanted: As time permits Same as LRB:
 For: Sheila Harsdorf (608) 266-7745 By/Representing: Matt Wuebke
 May Contact: Drafter: chanaman
 Subject: Justice - criminal Addl. Drafters:
 Extra Copies:

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

Pre Topic:

No specific pre topic given

Topic:

DNA samples go to department of justice until analysis versus law enforcement agencies; 13-3905

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 | chanaman 3/6/2014 | scalvin 3/6/2014 | jmurphy 3/6/2014 | _____ | sbasford 3/6/2014 | sbasford 3/6/2014 | |

FE Sent For:

<END>

03-18-2014
("1")

Supplement FE by DOJ requested by Nick Probst in the Speaker's office.

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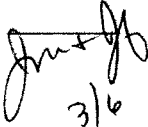
Topic:

DNA samples go to department of justice until analysis versus law enforcement agencies; 13-3905

Instructions:

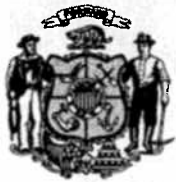
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|--------------|----------------|----------------------|----------------------|--|------------------|-----------------|-----------------|
| /1 | chanaman | /1 SAC 03/06/2014 | /1 SAC 03/06/2014 |  3/6 | | | |

FE Sent For:

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa2041/1

CMH:f:....

to day

cjs&Sec

**SENATE AMENDMENT ,
TO SENATE BILL 373**

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

2 **1.** Page 1, line 8: after "standards" insert "."

3 **2.** Page 5, line 22 after that line insert:

INS
5-22 → 4 **3.** Page 18, line 2: after that line insert:

5 (END)

INS
REL

INS
18-2



2013 BILL

1 AN ACT *to renumber and amend* 165.84 (7) (am) 1., 2., 3. and 4., 165.84 (7) (bm)
 2 1. and 165.84 (7) (bm) 2.; *to consolidate, renumber and amend* 165.84 (7)
 3 (a) and (b); *to amend* 165.76 (1) (gm), 165.76 (4) (c), 165.77 (3) and 165.84 (7)
 4 (am) (intro.) of the statutes; and *to affect* 2013 Wisconsin Act 20, section 9326
 5 (1) (h); **relating to:** deoxyribonucleic acid submission and testing and the
 6 deoxyribonucleic acid analysis surcharge.

INS
REL

Analysis by the Legislative Reference Bureau

Under current law, beginning on April 1, 2015, all law enforcement agencies must obtain a biological specimen from each individual arrested for a felony and from each individual taken into custody for a juvenile offense that would be a felony if committed by an adult in this state (arrested). The law enforcement agency must submit the specimen to the crime laboratories in the Department of Justice (DOJ) for deoxyribonucleic acid (DNA) analysis and inclusion of the individual's DNA profile in the state data bank if the arrest was conducted under a warrant or if the court has informed the law enforcement agency of any of the following: 1) the court has found probable cause that the individual committed a felony; 2) the individual did not appear at the initial appearance or preliminary examination or has waived the preliminary examination; or 3) the individual did not appear for a juvenile delinquency proceeding. If the arrest was not conducted under a warrant and the law enforcement agency is not informed by the court of one of the circumstances

BILL

listed above, the law enforcement agency must destroy the biological specimen one year after the arrest.

Under this bill, after the law enforcement agency obtains a biological specimen, the law enforcement agency must submit the biological specimen to DOJ. DOJ may not subject the specimen to DNA analysis and include the DNA profile in the state data bank unless the court informs DOJ of one of the following: 1) the arrest was conducted under a warrant; 2) the court found probable cause that the individual committed a felony; 3) the individual did not appear at the initial appearance or preliminary examination or has waived the preliminary examination; or 4) the individual did not appear for a juvenile delinquency proceeding. If DOJ is not informed by the court of one of the circumstances listed above, DOJ must destroy the biological specimen one year after DOJ receives it.

For further information see the *state* 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:

INS
S.221
2

③ DOJ
" SECTION ①. 165.76 (1) (gm) of the statutes, as created by 2013 Wisconsin Act 20, is amended to read:

3 165.76 (1) (gm) Is arrested for a felony; or is taken into custody for a juvenile
4 offense that would be a felony if committed by an adult in this state, ~~and s. 165.84~~
5 ~~(7) (am) 1., 2., 3., or 4. applies to the person.~~

6 ⑤ IDE SECTION ②. 165.76 (4) (c) of the statutes, as created by 2013 Wisconsin Act 20,
7 is amended to read:

8 165.76 (4) (c) Allow a biological specimen, or data obtained from analysis of a
9 biological specimen, obtained under this section ~~or, under~~ s. 51.20 (13) (cr), ~~165.84~~
10 ~~(7), 938.21 (1m), 938.30 (2m), 938.34 (15), 970.02 (8), 971.17 (1m) (a), 973.047, or~~
11 ~~980.063, or, if the specimen is required to be analyzed under s. 165.84 (7) (am) 1m.,~~
12 ~~under s. 165.84 (7) (a),~~ to be submitted for inclusion in an index established under
13 42 USC 14132 (a) or in another national index system.



BILL

1 **SECTION** ^{10g} ~~§~~ 165.77 (3) of the statutes, as affected by 2013 Wisconsin Act 20, is
2 amended to read:

3 165.77 (3) If the laboratories receive a human biological specimen under s.
4 51.20 (13) (cr), 165.76, ~~165.84 (7) (am)~~, 938.21 (1m), 938.30 (2m), 938.34 (15), 970.02
5 (8), 971.17 (1m) (a), 973.047, or 980.063, the laboratories shall analyze the
6 deoxyribonucleic acid in the specimen. If the laboratories receive a human biological
7 specimen under s. 165.84 (7) (a), the laboratories shall analyze the deoxyribonucleic
8 acid in the specimen as provided under s. 165.84 (7) (am) 1m. The laboratories shall
9 maintain a data bank based on data obtained from deoxyribonucleic acid analysis of
10 those specimens. The laboratories may compare the data obtained from one
11 specimen with the data obtained from other specimens. The laboratories may make
12 data obtained from any analysis and comparison available to law enforcement
13 agencies in connection with criminal or delinquency investigations and, upon
14 request, to any prosecutor, defense attorney or subject of the data. The data may be
15 used in criminal and delinquency actions and proceedings.

16 **SECTION** ¹⁰ⁱ ~~§~~ 165.84 (7) (a) and (b) of the statutes, as created by 2013 Wisconsin
17 Act 20, are consolidated, renumbered 165.84 (7) (a) and amended to read:

18 165.84 (7) (a) Subject to rules promulgated by the department of justice under
19 s. 165.76 (4), all persons in charge of law enforcement and tribal law enforcement
20 agencies shall obtain, when the individual's fingerprints or other identifying data
21 are obtained, a biological specimen for deoxyribonucleic acid analysis from each
22 individual arrested for a felony and each individual taken into custody for a juvenile
23 offense that would be a felony if committed by an adult in this state. ~~(b) Biological~~
24 ~~samples required under par. (a) shall be obtained and, if par. (am) requires,~~
25 ~~submitted as~~ The law enforcement agency shall submit the biological specimen to the

BILL

1 crime laboratories in a manner specified in the rules promulgated by the department
 2 of justice under s. 165.76 (4).

3 ^{① 10K} SECTION 165.84 (7) (am) (intro.) of the statutes, as created by 2013 Wisconsin
 4 Act 20, is amended to read:

5 165.84 (7) (am) (intro.) ~~The person in charge of the law enforcement or tribal~~
 6 ~~law enforcement agency shall submit the~~ After receiving an individual's specimen to
 7 submitted under par. (a), the crime laboratories for shall do one of the following:

8 1m. If, within the time limit under subd. 2m., the court notifies the crime
 9 laboratories under par. (bm) that any of the following applies, analyze the
 10 deoxyribonucleic acid analysis in the specimen and inclusion of include the
 11 individual's deoxyribonucleic acid profile in the data bank under s. 165.77 (3) only
 12 if any of the following applies:

13 ^{② 10m} SECTION 165.84 (7) (am) 1., 2., 3. and 4. of the statutes, as created by 2013
 14 Wisconsin Act 20, are renumbered 165.84 (7) (am) 1m. a., b., c. and d., and 165.84 (7)
 15 (am) 1m. c. and d., as renumbered, are amended to read:

16 165.84 (7) (am) 1m. c. The individual ~~fails~~ failed to appear at the initial
 17 appearance or preliminary examination or the person waives waived the
 18 preliminary examination.

19 d. The individual ~~fails~~ failed to appear for a delinquency proceeding under ch.
 20 938.

21 ^{③ 10n} SECTION 165.84 (7) (bm) 1. of the statutes, as created by 2013 Wisconsin Act
 22 20, is renumbered 165.84 (7) (bm) and amended to read:

23 165.84 (7) (bm) ~~Unless par. (am) 1. applies to the individual, the~~ The court shall
 24 notify the agency crime laboratories if par. (am) 2., 3., or 4. 1m. a., b., c., or d. applies

BILL

1 to an individual ~~the law enforcement or tribal law enforcement agency who has been~~
2 arrested.

3 SECTION ^{210g} 165.84 (7) (bm) 2. of the statutes, as created by 2013 Wisconsin Act
4 20, is renumbered 165.84 (7) (am) 2m. and amended to read:

5 165.84 (7) (am) 2m. ~~Unless par. (am) 1. applies to the individual, if~~ If, one year
6 after the date the biological sample was ~~obtained~~ submitted under par. (a), the court
7 has not notified the crime laboratories ~~under subd. 1. the law enforcement or tribal~~
8 ~~law enforcement agency~~ par. (bm) that ~~par. (am) 2., 3., or 4. subd. 1m. a., b., c., or d.~~
9 applies to the individual, ~~the law enforcement or tribal law enforcement agency shall~~
10 destroy the biological sample. ' ' .

11 SECTION ^{29c} 2013 Wisconsin Act 20, section 9326 (1) (h) is amended to read:

12 [2013 Wisconsin Act 20] Section 9326 (1) (h) The treatment of section 973.047
13 (1f) of the statutes first applies to ~~sentences imposed or probations placements made~~
14 offenses committed on the effective date of this paragraph.

15 SECTION ^{30c} ~~10~~ Effective dates. This bill takes effect on the day after
16 publication, except as follows:

17 (1) The treatment of sections 165.76 (1) (gm) and (4) (c), 165.77 (3), and 165.84
18 (7) (a), (am) (intro.), 1., 2., 3., and 4., (b), and (bm) 1. and 2. of the statutes takes effect
19 on April 1, 2015. ' ' .

20 (END)

1WS
18-2