

2013 DRAFTING REQUEST

Assembly Amendment (AA-SB373)

Received: 3/18/2014 Received By: chanaman
 Wanted: As time permits Same as LRB:
 For: Dean Knudson (608) 266-1526 By/Representing: Matt Rossetto
 May Contact: Drafter: chanaman
 Subject: Justice - criminal Addl. Drafters:
 Extra Copies:

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

Pre Topic:

No specific pre topic given

Topic:

Limit collection of DNA at arrest; merge with SA4

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>
/?	chanaman 3/18/2014	csicilia 3/18/2014		_____			
/1			jfrantze 3/19/2014	_____	sbasford 3/19/2014	sbasford 3/19/2014	

FE Sent For:

<END>

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FE Sent For:

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WED early AM
State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa2129/1

CMH:cjs:rs

tomorrow
early morning

Stays a 2/19/14

RMR

ASSEMBLY AMENDMENT,
TO ASSEMBLY BILL 482

SB 373

full
SA-

change component to item:m:unusual

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

2 1. Page 1, line 8: delete "standards" and substitute "standards, collection of
3 deoxyribonucleic acid at arrest, ~~deoxyribonucleic acid submission and testing and~~

4 ~~(the deoxyribonucleic acid analysis surcharge)~~ stay

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

6 "SECTION 10rb. 165.76 (1) (gm) of the statutes, as created by 2013 Wisconsin

7 Act 20, is amended to read:

8 165.76 (1) (gm) Is arrested for a felony violent crime, as defined in s. 165.84 (7)

9 (ab), or is taken into custody for a juvenile offense that would be a felony violent

10 crime, as defined in s. 165.84 (7) (ab), if committed by an adult in this state, and s.

11 ~~165.84 (7) (am) 1., 2., 3., or 4. applies to the person.~~

12 SECTION 10rc. 165.76 (4) (c) of the statutes, as created by 2013 Wisconsin Act

13 20, is amended to read:

after the material inserted by senate amendment 4, insert

delete the material inserted by senate amendment 4 and insert substitute:

change component to item:m:unusual

1 165.76 (4) (c) Allow a biological specimen, or data obtained from analysis of a
2 biological specimen, obtained under this section ~~or, under~~ s. 51.20 (13) (cr), ~~165.84~~
3 (7), 938.21 (1m), 938.30 (2m), 938.34 (15), 970.02 (8), 971.17 (1m) (a), 973.047, or
4 980.063, or, if the specimen is required to be analyzed under s. 165.84 (7) (am) 1m.,
5 under s. 165.84 (7) (ah), to be submitted for inclusion in an index established under
6 42 USC 14132 (a) or in another national index system.

7 **SECTION 10rd.** 165.77 (3) of the statutes, as affected by 2013 Wisconsin Act 20,
8 is amended to read:

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

22 **SECTION 10re.** 165.77 (4) (ag) of the statutes is created to read:

23 165.77 (4) (ag) In this subsection, "violent crime" has the meaning given in s.
24 165.84 (7) (ab).

1 **SECTION 10rf.** 165.77 (4) (am) 2. a. of the statutes, as created by 2013 Wisconsin
2 Act 20, is amended to read:

3 165.77 (4) (am) 2. a. All charges ~~filed in connection with the arrest and all~~
4 ~~charges~~ for which the person was required to provide a biological specimen under s.
5 165.84 (7) or 970.02 (8) have been dismissed.

6 **SECTION 10rg.** 165.77 (4) (am) 2. b. of the statutes, as created by 2013
7 Wisconsin Act 20, is amended to read:

8 165.77 (4) (am) 2. b. The trial court reached final disposition for all charges ~~in~~
9 ~~connection with the arrest and for any charges~~ for which the person was required to
10 provide a biological specimen under s. 165.84 (7) or 970.02 (8), and the person was
11 not adjudged guilty of a violent crime in connection with ~~the arrest or any such~~
12 ~~charge for which the person was required to provide a biological specimen under s.~~
13 970.02 (8).

14 **SECTION 10rh.** 165.77 (4) (am) 2. c. of the statutes, as created by 2013 Wisconsin
15 Act 20, is amended to read:

16 165.77 (4) (am) 2. c. At least one year has passed since the arrest and the person
17 has not been charged with a violent crime in connection with the arrest.

18 **SECTION 10ri.** 165.77 (4) (am) 2. d. of the statutes, as created by 2013 Wisconsin
19 Act 20, is amended to read:

20 165.77 (4) (am) 2. d. The person was adjudged guilty of a violent crime in
21 connection with ~~either the arrest or any charge~~ for which the person was required
22 to provide a biological specimen under s. 165.84 (7) or 970.02 (8), and all such
23 convictions for a violent crime have been reversed, set aside, or vacated.

24 **SECTION 10rk.** 165.77 (4) (am) 3. a. of the statutes, as created by 2013
25 Wisconsin Act 20, is amended to read:

1 165.77 (4) (am) 3. a. All criminal complaints or delinquency petitions that
2 allege that the person committed a violation that would be a felony violent crime if
3 committed by an adult in this state and that are in connection with the taking into
4 custody have been dismissed.

5 **SECTION 10rm.** 165.77 (4) (am) 3. b. of the statutes, as created by 2013
6 Wisconsin Act 20, is amended to read:

7 165.77 (4) (am) 3. b. The trial court reached final disposition for all allegations
8 that the person committed a violation that would be a felony violent crime if
9 committed by an adult in this state that are in connection with the taking into
10 custody, and the person was not convicted or adjudged delinquent for ~~an offense a~~
11 violation that would be a felony violent crime if committed by an adult in this state
12 that is in connection with the taking into custody.

13 **SECTION 10ro.** 165.77 (4) (am) 3. c. of the statutes, as created by 2013 Wisconsin
14 Act 20, is amended to read:

15 165.77 (4) (am) 3. c. At least one year has passed since the person was taken
16 into custody and no criminal complaint or delinquency petition alleging that the
17 person committed a violation that would be a felony violent crime if committed by an
18 adult in this state has been filed against the person in connection with the taking into
19 custody.

20 **SECTION 10rr.** 165.77 (4) (am) 3. d. of the statutes, as created by 2013 Wisconsin
21 Act 20, is amended to read:

22 165.77 (4) (am) 3. d. The person was convicted or adjudged delinquent for a
23 violation that would be a felony violent crime if committed by an adult in this state
24 and that is in connection with the taking into custody, and the conviction or
25 delinquency adjudication has been reversed, set aside, or vacated.

1 **SECTION 10rs.** 165.84 (7) (a) and (b) of the statutes, as created by 2013
2 Wisconsin Act 20, are consolidated, renumbered 165.84 (7) (ah) and amended to read:

3 165.84 (7) (ah) Subject to rules promulgated by the department of justice under
4 s. 165.76 (4), all persons in charge of law enforcement and tribal law enforcement
5 agencies shall obtain, when the individual's fingerprints or other identifying data
6 are obtained, a biological specimen for deoxyribonucleic acid analysis from each
7 individual arrested for a ~~felony violent crime~~ and each individual taken into custody
8 for a juvenile offense that would be a ~~felony violent crime~~ if committed by an adult
9 in this state. ~~(b) Biological samples required under par. (a) shall be obtained and,~~
10 ~~if par. (am) requires, submitted as~~ The law enforcement agency shall submit the
11 biological specimen to the crime laboratories in a manner specified in the rules
12 ~~promulgated by the department of justice under s. 165.76 (4).~~

13 **SECTION 10rt.** 165.84 (7) (ab) of the statutes is created to read:

14 165.84 (7) (ab) In this subsection, "violent crime" means of any of the following:

15 1. A violation of s. 940.01, 940.05, 940.225 (1), (2), or (3), 940.235, 940.305,
16 940.31, 943.02, 943.10, 943.23 (1g) or (2), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03
17 (2) (a) or (c), or 948.30 (2).

18 2. A violation of s. 940.02, 940.03, 940.09 (1c), or 940.19 (2), (4), or (5).

19 3. The solicitation, conspiracy, or attempt, under s. 939.30, 939.31, or 939.32,
20 to commit a violation under subd. 1.

21 **SECTION 10ru.** 165.84 (7) (am) (intro.) of the statutes, as created by 2013
22 Wisconsin Act 20, is amended to read:

23 165.84 (7) (am) (intro.) ~~The person in charge of the law enforcement or tribal~~
24 ~~law enforcement agency shall submit the~~ After receiving an individual's specimen to
25 submitted under par. (ah), the crime laboratories for shall do one of the following:

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

6 **SECTION 10rv.** 165.84 (7) (am) 1., 2., 3. and 4. of the statutes, as created by 2013
7 Wisconsin Act 20, are renumbered 165.84 (7) (am) 1m. a., b., c. and d., and 165.84 (7)
8 (am) 1m. b., c. and d., as renumbered, are amended to read:

9 165.84 (7) (am) 1m. b. The court has made a finding that there is probable cause
10 that the individual committed a felony violent crime or that the juvenile committed
11 an offense that would be a felony violent crime if committed by an adult in this state.

12 c. The individual ~~fails~~ failed to appear at the initial appearance or preliminary
13 examination or the person ~~waives~~ waived the preliminary examination.

14 d. The individual ~~fails~~ failed to appear for a delinquency proceeding under ch.
15 938.

16 **SECTION 10rx.** 165.84 (7) (bm) 1. of the statutes, as created by 2013 Wisconsin
17 Act 20, is renumbered 165.84 (7) (bm) and amended to read:

18 165.84 (7) (bm) ~~Unless par. (am) 1. applies to the individual, the~~ The court shall
19 notify the agency crime laboratories if par. (am) ~~2., 3., or 4.~~ 1m. a., b., c., or d. applies
20 to an individual ~~the law enforcement or tribal law enforcement agency who has been~~
21 arrested.

22 **SECTION 10ry.** 165.84 (7) (bm) 2. of the statutes, as created by 2013 Wisconsin
23 Act 20, is renumbered 165.84 (7) (am) 2m. and amended to read:

24 165.84 (7) (am) 2m. ~~Unless par. (am) 1. applies to the individual, if~~ If, one year
25 after the date the biological sample was ~~obtained~~ submitted under par. ~~(a)~~ (ah), the

1 court has not notified the crime laboratories under ~~subd. 1. the law enforcement or~~
2 ~~tribal law enforcement agency par. (bm)~~ that ~~par. (am) 2., 3., or 4. subd. 1m. a., b., c.,~~
3 ~~or d.~~ applies to the individual, ~~the law enforcement or tribal law enforcement agency~~
4 shall destroy the biological sample.

5 **SECTION 10rz.** 165.84 (7) (c) 1. of the statutes, as created by 2013 Wisconsin Act
6 20, is amended to read:

7 165.84 (7) (c) 1. No biological specimen obtained under par. (a) (ah) may be
8 subject to analysis except by the crime laboratories as provided under s. 165.77.”.

9 **3.** Page 17, line 20: after that line insert:

10 “**SECTION 27rb.** 938.21 (1m) of the statutes, as created by 2013 Wisconsin Act
11 20, is amended to read:

12 938.21 (1m) BIOLOGICAL SPECIMEN. If the juvenile has been taken into custody
13 on the basis of a violation that would be a felony violent crime, as defined in s. 165.84
14 (7) (ab), if committed by an adult in this state, the court shall determine if a biological
15 specimen has been obtained from the juvenile under s. 165.84 (7), and if not, the court
16 shall direct that a law enforcement agency or tribal law enforcement agency obtain
17 a biological specimen from the juvenile and submit it to the state crime laboratories
18 as specified in rules promulgated by the department of justice under s. 165.76 (4).
19 If the court requires the juvenile to provide a specimen under this subsection or if a
20 biological specimen has already been obtained from the juvenile, the court shall
21 inform the juvenile that he or she may request expungement under s. 165.77 (4).

22 **SECTION 27rg.** 938.30 (2m) of the statutes, as created by 2013 Wisconsin Act
23 20, is amended to read:

1 938.30 (2m) BIOLOGICAL SPECIMEN. If the juvenile is before the court on the basis
 2 of a violation that would be a felony violent crime, as defined in s. 165.84 (7) (ab), if
 3 committed by an adult in this state, the court shall determine if a biological specimen
 4 has been obtained from the juvenile under s. 165.84 (7), and if not, the court shall
 5 direct that a law enforcement agency or tribal law enforcement agency obtain a
 6 biological specimen from the juvenile and submit it to the state crime laboratories
 7 as specified in rules promulgated by the department of justice under s. 165.76 (4).
 8 If the court requires the juvenile to provide a specimen under this subsection or if a
 9 biological specimen has already been obtained from the juvenile, the court shall
 10 inform the juvenile that he or she may request expungement under s. 165.77 (4)."/>

11 → 4. Page 18, line 2: after that line *insert* *delete the material inserted*
 12 “SECTION 28rg. 970.02 (8) of the statutes, as created by 2013 Wisconsin Act 20, *by senate amendment 4 and*
 13 is amended to read: *substitute*"/>

14 970.02 (8) If the offense charged is a felony violent crime, as defined in s. 165.84
 15 (7) (ab), the judge shall determine if a biological specimen has been obtained from the
 16 defendant under s. 165.84 (7), and, if not, the judge shall direct that a law
 17 enforcement agency or tribal law enforcement agency obtain a biological specimen
 18 from the defendant and submit it to the state crime laboratories as specified in rules
 19 promulgated by the department of justice under s. 165.76 (4). If the judge requires
 20 the defendant to provide a specimen under this subsection or if a biological specimen
 21 has already been obtained from the defendant, the judge shall inform the defendant
 22 that he or she may request expungement under s. 165.77 (4).

23 SECTION 28t. 2013 Wisconsin Act 20, section 9326 (1) (h) is amended to read:

Change to conform with unusual

1 [2013 Wisconsin Act 20] Section 9326 (1) (h) The treatment of section 973.047
2 (1f) of the statutes first applies to ~~sentences imposed or probations placements made~~
3 offenses committed on the effective date of this paragraph.

4 **SECTION 28v. Initial applicability.**

5 (1v) DNA COLLECTION. The treatment of sections 165.76 (1) (gm) and (4) (c),
6 165.77 (3) and (4) (ag) and (am) 2. a., b., c., and d. and 3. a., b., c., and d., 165.84 (7)
7 (a), (ab), (am) (intro.), 1., 2., 3., and 4., (b), (bm) 1. and 2., and (c) 1., 938.21 (1m),
8 938.30 (2m), and 970.02 (8) of the statutes first applies to individuals arrested or
9 taken into custody on the effective date of this subsection.

10 **SECTION 28w. Effective dates.** This act takes effect on the day after
11 publication, except as follows:

12 (1v) DNA COLLECTION. The treatment of sections 165.76 (1) (gm) and (4) (c),
13 165.77 (3) and (4) (ag) and (am) 2. a., b., c., and d. and 3. a., b., c., and d., 165.84 (7)
14 (a), (ab), (am) (intro.), 1., 2., 3., and 4., (b), (bm) 1. and 2., and (c) 1., 938.21 (1m),
15 938.30 (2m), and 970.02 (8) of the statutes and SECTION 28v (1v) of this act take effect
16 on April 1, 2015, or on the day after publication, whichever is later.”.

17 (END)