

**2013 DRAFTING REQUEST**

**Assembly Amendment (AA-SB373)**

Received: **3/20/2014** 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; add more violent crimes

**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 3/20/2014	wjackson 3/20/2014		_____			
/1	chanaman 3/21/2014	wjackson 3/21/2014	jfrantze 3/20/2014	_____	sbasford 3/20/2014	sbasford 3/20/2014	
/2				_____	sbasford 3/21/2014	sbasford 3/21/2014	

FE Sent For:

<END>

## 2013 DRAFTING REQUEST

### Assembly Amendment (AA-SB373)

Received: 3/20/2014 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; add more violent crimes

---

#### 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 3/20/2014	wjackson 3/20/2014		<del>wlj</del> <del>cmh</del>			
/1		1/2 wlj 3/21	jfrantze 3/20/2014		sbasford 3/20/2014	sbasford 3/20/2014	

FE Sent For: 1/2 wlj 3/21

<END>

**2013 DRAFTING REQUEST**

**Assembly Amendment (AA-SB373)**

Received: 3/20/2014 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; add more violent crimes

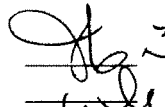
---

**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	1 wly 3/20	wly	 3/20			

FE Sent For:

<END>

VIOLENT CRIMES DEFINED AS:

Any felony under:

~~940.01~~ ~~First-degree intentional homicide~~

~~940.02~~ ~~First-degree reckless homicide.~~

~~940.03~~ ~~Felony murder~~

~~940.05~~ ~~Second-degree intentional homicide~~

~~940.09 (1c)~~ ~~Homicide by intoxicated use of vehicle or firearm~~

(a) Except as provided in par. (b), a person who violates sub. (1) is guilty of a Class D felony.

(b) A person who violates sub. (1) is guilty of a Class C felony if the person has one or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (2).

~~940.19 (2) (4) or (5)~~ ~~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.~~ Whoever, with intent to disable or disfigure another, cuts or mutilates the tongue, eye, ear, nose, lip, limb or other bodily member of another is guilty of a Class C felony.

~~940.225~~ ~~Sexual assault.~~

- First, Second, and third Degree

~~940.235~~ ~~Strangulation and suffocation.~~

~~940.305~~ ~~Taking hostages~~

~~940.31~~ ~~Kidnapping~~

~~941.20~~ ~~Endangering safety by use of dangerous weapon~~

**941.21 Disarming a peace officer**

**943.02 Arson of buildings; damage of property by explosives**

**943.06 Molotov cocktails**

**943.10 (2) Burglary**

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

(a) The person is armed with a dangerous weapon or a device or container described under s. 941.26 (4) (a).

(b) The person is unarmed, but arms himself with a dangerous weapon or a device or container described under s. 941.26 (4) (a) while still in the burglarized enclosure.

(c) While the person is in the burglarized enclosure, he or she opens, or attempts to open, any depository by use of an explosive.

(d) While the person is in the burglarized enclosure, he or she commits a battery upon a person lawfully therein.

(e) The burglarized enclosure is a dwelling, boat, or motor home and another person is lawfully present in the dwelling, boat, or motor home at the time of the violation.

**943.23 Operating vehicle without owner's consent (1g)**

(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)**

(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.**

**- First and second sexual assault**

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

**948.03 (2) (a) or (c) Physical abuse of a child.**

**2) INTENTIONAL CAUSATION OF BODILY HARM.**

(a) Whoever intentionally causes great bodily harm to a child is guilty of a Class C felony.

(c) Whoever intentionally causes bodily harm to a child by conduct which creates a high probability of great bodily harm is guilty of a Class F felony

**948.05 Sexual exploitation 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** Whoever, with intent to commit any of the following acts, causes or attempts to cause any child who has not attained the age of 18 years to go into any vehicle, building, room or secluded place is guilty of a Class D felony:

- (1) Having sexual contact or sexual intercourse with the child in violation of s. 948.02, 948.085, or 948.095.
- (2) Causing the child to engage in prostitution.
- (3) Exposing a sex organ to the child or causing the child to expose a sex organ in violation of s. 948.10.
- (4) Recording the child engaging in sexually explicit conduct.
- (5) Causing bodily or mental harm to the child.
- (6) Giving or selling to the child a controlled substance or controlled substance analog in violation of ch. 961.

**948.08 Soliciting a child for prostitution**

**948.085 Sexual assault of a child placed in substitute care or**

**948.30 Abduction of another's child; constructive custody (2) if unders. 940.302**

(2) if s. 940.302 (2) (a) 1. b. applies.

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

- (a) By force or threat of imminent force, takes a child who is not his or her own by birth or adoption from the child's home or the custody of his or her parent, guardian or legal custodian.
- (b) By force or threat of imminent force, detains a child who is not his or her own by birth or adoption when the child is away from home or the custody of his or her parent, guardian or legal custodian.

**940.302 Human trafficking (2)**

(2)

(a) 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:

1. One of the following applies:
- b. The trafficking is for the purposes of a commercial sex act.

The solicitation, conspiracy or attempt, under s. 939.30, 939.31 or 939.32, to  
commit a Class A felony

**939.30 Solicitation**

**939.31 Conspiracy**

**939.32 Attempt**

CORRESPONDENCE/MEMORANDUM

DEPARTMENT OF JUSTICE

Date: March 20, 2014

To: Brian O'Keefe, Administrator  
Division of Law Enforcement Services

From: Jeffrey Kassel  
Assistant Attorney General

Subject: Effect of *Maryland v. King* on offenses for which DNA may be collected at arrest.

In *Maryland v. King*, 133 S. Ct. 1958 (2013), the United States Supreme Court upheld Maryland's law authorizing the collection of DNA from arrestees. The Department of Justice does not believe that any legislative changes are necessary to bring current law into compliance with *King*.

Maryland's statute provides for collection of biological samples from individuals charged with "a crime of violence or an attempt to commit a crime of violence" or "burglary or an attempt to commit burglary." However, while the Maryland statute limits DNA collection to arrests for certain crimes, the Court's analysis is not limited to those crimes.

The Court's summary of its holding demonstrates that DNA may be collected at arrest for any "serious offense." The Court held: "When officers make an arrest supported by probable cause to hold *for a serious offense* and they bring the suspect to the station to be detained in custody, taking and analyzing a cheek swab of the arrestee's DNA is, like fingerprinting and photographing, a legitimate police booking procedure that is reasonable under the Fourth Amendment." *King*, 133 S. Ct. at 1980 (emphasis added).

Thus, the Court's holding is not limited to "violent" offenses but is framed instead in terms of "serious" offenses. All felonies are serious offenses, as they are punishable by imprisonment in the Wisconsin state prisons. See Wis. Stat. § 939.60.

## Practical Issues with the Knudson Amendment to SB373

It fails to include many very violent crimes such as:

- Domestic Abuse Violation that occurs within 72 hours of a Domestic Abuse Arrest
- 2 degree reckless homicide
- False Imprisonment
- Human Trafficking
- Intimidation of a Victim/Witness
- Endangering Safety by Use of Dangerous Weapon (This statute is used for drive-by shootings)
- Recklessly Endangering Safety and Reckless Injury (These statutes are used for when a victim is actually shot but doesn't die)
- Product Tampering
- Strong arm Robbery
- Physical Abuse Child (recklessly causing great bodily harm)
- Sexual Assault of a Child Placed in Substitute Care
- Sexual Assault of a Child by a School Staff Person
- Sexual Exploitation of a Child
- Trafficking of a Child

The Knudson Amendment re-defines a "Violent Crime" and takes out many crimes that are currently listed.

### 969.035 Pretrial detention; denial of release from custody.

(1) In this section, "violent crime" means any crime specified in s. ~~940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.10, 940.19 (5), 940.195 (5), 940.21, 940.225(1), 940.23, 941.327, 948.02 (1) or (2), 948.025, 948.03, or 948.085.~~

### 939.632 Penalties; ~~violent crime~~ in a school zone

(e) "Violent crime" means any of the following:

1. Any felony under s. ~~940.01, 940.02, 940.03, 940.05, 940.09 (1c), 940.19 (2), (4) or (5), 940.21, 940.225 (1), (2) or (3), 940.235, 940.305, 940.31, 941.20, 941.21, 943.02, 943.06, 943.10 (2), 943.23 (1), 943.32 (2), 948.02 (1) or (2), 948.025, 948.03 (2) (a) or (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, or 948.30 (2) or under s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.~~

This above list of violent crimes that are not included in the Knudson amendment is not all inclusive.





State of Wisconsin  
2013 - 2014 LEGISLATURE



a2248/1

LRBa2199/T  
CMH:cjs:jf  
TWJ

ASSEMBLY AMENDMENT 1,  
TO SENATE BILL 373

March 20, 2014 – Offered by Representative KNUDSON.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

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

2 ↓ 1. Page 1, line 8: after the material inserted by senate amendment 4, insert  
3 “collection of deoxyribonucleic acid at arrest.”

4 2. Page 5, line 22: after that line, delete the material inserted by senate  
5 amendment 4 and substitute:

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:

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.

3 A felony if a penalty enhancer specified in s. 939.621 could be imposed.

940.43, 940.45, 941.20, 941.21, 941.327,

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 <sup>940.21,</sup> any of the following:  
 15 1. A <sup>felony</sup> violation of s. 940.01, 940.05, <sup>940.21,</sup> 940.225 (1), (2), or (3), 940.235, 940.305,  
 16 940.31, 943.02, <sup>943.06,</sup> 943.10, 943.23 (1g) or (2), 943.32 <sup>(2)</sup>, 948.02 (1) or (2), 948.025, 948.03  
 17 (2) (a) or (c), <sup>940.06, 940.07, 940.08,</sup> or 948.30 (2).  
 18 2. A <sup>felony</sup> violation of s. 940.02, 940.03, <sup>940.09 (1c),</sup> 940.09 (1c), <sup>940.10,</sup> 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:

948.05, 948.051, 948.055, 948.07, 948.08, 948.085,  
948.095

940.301  
940.302(2)  
940.23,  
941.30,  
or  
948.03  
(3)

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, delete the material inserted by senate  
12 amendment 4 and substitute:

13           “**SECTION 28rg.** 970.02 (8) of the statutes, as created by 2013 Wisconsin Act 20,  
14 is amended to read:

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

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



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)

## Hanaman, Cathlene

---

**From:** Lundquist, Tim  
**Sent:** Friday, March 21, 2014 12:39 AM  
**To:** Hanaman, Cathlene  
**Cc:** Bruce, Cory  
**Subject:** additions to Knudson amendment

Hi Cathlene,

Per our conversation—please add these to the latest amendment.

Thanks,

Tim

940.19(6)  
940.195(2), (4), (5), (6)  
940.20 (all listed subgroups)  
940.201(2)  
940.203(2)  
940.205(2)  
940.207(2)  
940.208  
940.32(2), (2e), (2m)

Tim Lundquist  
Wisconsin State Assembly  
Office of Rep. Dean Knudson  
Room 320 East



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBa2248/7 2  
CMH:cjs&wlj  
stays  
wj

ASSEMBLY AMENDMENT ,  
TO SENATE BILL 373

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

2 1. Page 1, line 8: after the material inserted by senate amendment 4, insert  
3 “collection of deoxyribonucleic acid at arrest,”.

4 2. Page 5, line 22: after that line, delete the material inserted by senate  
5 amendment 4 and substitute:

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:

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 any of the following:

15           1. A felony violation of s. 940.01, 940.05, 940.21, 940.225 (1), (2), or (3), 940.235,  
16 940.30, 940.302 (2), 940.305, 940.31, <sup>940.32 (2), (2e), or (2m),</sup> 940.43, 940.45, 941.20, 941.21, 941.327, 943.02,  
17 943.06, 943.10, 943.23 (1g) or (2), 943.32, 948.02 (1) or (2), 948.025, 948.03 (2) (a) or  
18 (c), 948.05, 948.051, 948.055, 948.07, 948.08, 948.085, 948.095, or 948.30 (2).

19           2. A felony violation of s. 940.02, 940.03, 940.06, 940.07, <sup>or</sup> 940.08, 940.09 (1c),  
20 940.10, 940.19 (2), (4), <sup>or (6), 940.195 (2), (4), (5), and (6),</sup> or (5), 940.23, 941.30, or 948.03 (3). <sup>940.20, 940.201 (2),</sup>  
~~940.203 (2), 940.205 (2),~~ <sup>940.203 (2), 940.205 (2),</sup>

21           3. A felony if a penalty enhancer ~~specified in s. 939.621~~ <sup>940.207 (2), 940.208</sup> could be imposed.

22           4. The solicitation, conspiracy, or attempt, under s. 939.30, 939.31, or 939.32,  
23 to commit a violation under subd. 1.

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

1           165.84 (7) (am) (intro.) ~~The person in charge of the law enforcement or tribal~~  
2 ~~law enforcement agency shall submit the~~ After receiving an individual's specimen to  
3 submitted under par. (ah), the crime laboratories for shall do one of the following:

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

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

12           165.84 (7) (am) 1m. b. The court has made a finding that there is probable cause  
13 that the individual committed a felony violent crime or that the juvenile committed  
14 an offense that would be a felony violent crime if committed by an adult in this state.

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

17           d. The individual ~~fails~~ failed to appear for a delinquency proceeding under ch.  
18 938.

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

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



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

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

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

11           165.84 (7) (c) 1. No biological specimen obtained under par. (a) ~~(ah)~~ may be  
12 subject to analysis except by the crime laboratories as provided under s. 165.77.”.

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

14           “**SECTION 27rb.** 938.21 (1m) of the statutes, as created by 2013 Wisconsin Act  
15 20, is amended to read:

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

1 biological specimen has already been obtained from the juvenile, the court shall  
2 inform the juvenile that he or she may request expungement under s. 165.77 (4).

3 **SECTION 27rg.** 938.30 (2m) of the statutes, as created by 2013 Wisconsin Act  
4 20, is amended to read:

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

15 **4.** Page 18, line 2: after that line, delete the material inserted by senate  
16 amendment 4 and substitute:

17 **“SECTION 28rg.** 970.02 (8) of the statutes, as created by 2013 Wisconsin Act 20,  
18 is amended to read:

19 970.02 (8) If the offense charged is a ~~felony~~ violent crime, as defined in s. 165.84  
20 (7) (ab), the judge shall determine if a biological specimen has been obtained from the  
21 defendant under s. 165.84 (7), and, if not, the judge shall direct that a law  
22 enforcement agency or tribal law enforcement agency obtain a biological specimen  
23 from the defendant and submit it to the state crime laboratories as specified in rules  
24 promulgated by the department of justice under s. 165.76 (4). If the judge requires

1 the defendant to provide a specimen under this subsection or if a biological specimen  
2 has already been obtained from the defendant, the judge shall inform the defendant  
3 that he or she may request expungement under s. 165.77 (4).

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

5 [2013 Wisconsin Act 20] Section 9326 (1) (h) The treatment of section 973.047  
6 (1f) of the statutes first applies to ~~sentences imposed or probations placements made~~  
7 offenses committed on the effective date of this paragraph.

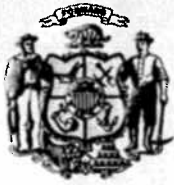
8 **SECTION 28v. Initial applicability.**

9 (1v) DNA COLLECTION. The treatment of sections 165.76 (1) (gm) and (4) (c),  
10 165.77 (3) and (4) (ag) and (am) 2. a., b., c., and d. and 3. a., b., c., and d., 165.84 (7)  
11 (a), (ab), (am) (intro.), 1., 2., 3., and 4., (b), (bm) 1. and 2., and (c) 1., 938.21 (1m),  
12 938.30 (2m), and 970.02 (8) of the statutes first applies to individuals arrested or  
13 taken into custody on the effective date of this subsection.

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

16 (1v) DNA COLLECTION. The treatment of sections 165.76 (1) (gm) and (4) (c),  
17 165.77 (3) and (4) (ag) and (am) 2. a., b., c., and d. and 3. a., b., c., and d., 165.84 (7)  
18 (a), (ab), (am) (intro.), 1., 2., 3., and 4., (b), (bm) 1. and 2., and (c) 1., 938.21 (1m),  
19 938.30 (2m), and 970.02 (8) of the statutes and SECTION 28v (1v) of this act take effect  
20 on April 1, 2015, or on the day after publication, whichever is later.”.

21 (END)



ASSEMBLY AMENDMENT 2,  
TO SENATE BILL 373

Before  
change

March 21, 2014 – Offered by Representatives KNUDSON, BIES and CRAIG.

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

2 1. Page 1, line 8: after the material inserted by senate amendment 4, insert  
3 “collection of deoxyribonucleic acid at arrest.”

4 2. Page 5, line 22: after that line, delete the material inserted by senate  
5 amendment 4 and substitute:

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:

AMENDMENTS INFORMATION

Date of Intro	Amendment Number	Offered by	LRB No.	LRB Intro'ed
20-MAR-14	AA2-SB373	Representatives Knudson, Bies and Craig.	a2248	

"Corrected copy"  
requested by Kay  
(ACC Office)  
03-26-2014

Intro. Date Change

MB



MB →

03-26-2014  
After  
change

**ASSEMBLY AMENDMENT 2,  
TO SENATE BILL 373**

March 20, 2014 – Offered by Representatives KNUDSON, BIES and CRAIG.

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

2 **1.** Page 1, line 8: after the material inserted by senate amendment 4, insert  
3 “collection of deoxyribonucleic acid at arrest,”.

4 **2.** Page 5, line 22: after that line, delete the material inserted by senate  
5 amendment 4 and substitute:

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: