



2013 ASSEMBLY BILL 556

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), 968.255
4 (2) (ag) and 968.255 (2) (ar) of the statutes; **relating to:** strip searches.

Analysis by the Legislative Reference Bureau

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.

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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 arrested or otherwise lawfully detained or taken into
10 custody, if the person will be incarcerated, imprisoned or otherwise detained in a jail
11 or prison with one or more other persons. Subject to subd. 3., for the purpose of this
12 subdivision, “detainee” does not include a juvenile who is taken into custody under
13 s. 938.19 and held in custody under s. 938.209.

14 **SECTION 2g.** 968.255 (1) (ag) of the statutes is created to read:

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

18 **SECTION 2r.** 968.255 (1) (ar) of the statutes is created to read:

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

24 **SECTION 2m.** 968.255 (1) (b) of the statutes is amended to read:

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1 968.255 (1) (b) “Strip search” means a search in which a ~~detained person’s~~
2 detainee’s genitals, pubic area, buttock or anus, or a ~~detained female person’s~~ female
3 detainee’s breast, is uncovered and either is exposed to view or is touched by a person
4 conducting the search, except that if the detainee is a person defined in par. (a) 5.,
5 “strip search” means a search in which a detainee’s genitals, pubic area, buttock or
6 anus, or a female detainee’s breast, is uncovered and exposed to view but is not
7 touched by a person conducting the search unless the touching is necessary to gain
8 the detainee’s cooperation with the search or unless the touching is necessary to
9 assist a disabled detainee’s cooperation with the search.

10 **SECTION 3.** 968.255 (2) (intro.) of the statutes is amended to read:

11 968.255 (2) (intro.) No person may ~~be the subject of~~ conduct a strip search
12 unless ~~he or she is a detained person and if~~ all of the following apply:

13 **SECTION 4.** 968.255 (2) (a) of the statutes is renumbered 968.255 (2) (am) and
14 amended to read:

15 968.255 (2) (am) The person conducting the search is of the same sex as the
16 ~~person detained~~ detainee, unless the search is a body cavity search conducted under
17 sub. (3);.

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

19 968.255 (2) (ag) The person subject to the search is a detainee.

20 **SECTION 5m.** 968.255 (2) (ar) of the statutes is created to read:

21 968.255 (2) (ar) The detainee will be incarcerated, imprisoned, or otherwise
22 detained in the jail or prison where the search is conducted for not less than 12 hours.
23 This paragraph applies only to a detainee who meets the definition in sub. (1) (a) 5.

24 **SECTION 6.** 968.255 (2) (b), (c), (d) and (e) of the statutes are amended to read:

