

2013 Assembly Bill 556 (LRB -2589)

An Act to renumber and amend 968.255 (2) (a); to amend 968.255 (1) (a), 968.255 (2) (intro.) and 968.255 (2) (b), (c), (d) and (e); and to create 968.255 (1) (a) 5. and 968.255 (2) (ag) of the statutes; relating to: strip searches. (FE)

2013

- 12-12. A. Introduced by Representatives **Stroebel, Krug, Bies, Murphy, Born, Marklein, A. Ott, Pridemore, Brooks and Smith**; cosponsored by Senator **Leibham**. 497
- 12-12. A. Read first time and referred to Committee on Judiciary 497
- 12-19. A. Fiscal estimate received
- 12-19. A. Fiscal estimate received
- 12-19. A. Public hearing held

2014

- 01-06. A. Fiscal estimate received
- 02-12. A. Assembly Amendment 1 offered by Representative Goyke (**LRB a1753**) 617
- 02-12. A. Assembly Amendment 2 offered by Representative Goyke (**LRB a1754**) 617
- 02-12. A. Assembly Amendment 3 offered by Representative Goyke (**LRB a1755**) 617
- 02-13. A. Executive action taken
- 02-13. A. **Assembly Amendment 4** offered by Committee on Judiciary (**LRB a1792**) 620
- 02-13. A. Report Assembly Amendment 4 adoption recommended by Committee on Judiciary, Ayes 9, Noes 0 622
- 02-13. A. Report passage as amended recommended by Committee on Judiciary, Ayes 6, Noes 3 622
- 02-13. A. Referred to Committee on Rules 622
- 02-13. A. Placed on calendar 2-18-2014 by Committee on Rules
- 02-17. A. Assembly Amendment 5 offered by Representative Goyke (**LRB a1812**) 644
- 02-18. A. Placed on the calendar of 2-18-2014 following Assembly Bill 746 666
- 02-18. A. Read a second time 671
- 02-18. A. **Assembly Amendment 4 adopted** 671
- 02-18. A. Assembly Amendment 5 withdrawn and returned to author 671
- 02-18. A. Assembly Amendment 6 offered by Representative Goyke (**LRB a1886**) 671
- 02-18. A. Assembly Amendment 6 withdrawn and returned to author 671
- 02-18. A. Assembly Amendment 7 offered by Representative Goyke (**LRB a1885**) 671
- 02-18. A. Assembly Amendment 7 withdrawn and returned to author 671
- 02-18. A. **Assembly Amendment 8** offered by Representatives Craig, Neylon, Kooyenga, Sanfelippo, Knudson, Kessler and Goyke (**LRB a1897**) 671
- 02-18. A. **Assembly Amendment 8 adopted** 671
- 02-18. A. Ordered to a third reading 671
- 02-18. A. Rules suspended 671
- 02-18. A. Read a third time and **passed** 671
- 02-18. A. Ordered immediately messaged 671
- 02-19. S. Received from Assembly 694
- 02-19. S. Read first time and referred to committee on Senate Organization 696
- 02-19. S. Available for scheduling
- 03-31. S. Public hearing requirement waived by committee on Senate Organization, pursuant to Senate Rule 18 (1m), Ayes 5, Noes 0 821
- 03-31. S. Placed on calendar 4-1-2014 pursuant to Senate Rule 18(1) 822
- 04-01. S. Read a second time
- 04-01. S. Ordered to a third reading
- 04-01. S. Rules suspended
- 04-01. S. Read a third time and **concurred in**, Ayes 18, Noes 15
- 04-01. S. Ordered immediately messaged
- 04-02. A. Received from Senate concurred in

**2013
ENROLLED BILL**

13en AB-556

ADOPTED DOCUMENTS:

Orig **Engr** **SubAmdt**

13-2589 / 1

Amendments to above (if none, write "NONE"): AA 4 — a 1792/1
AA 8 — a 1897/1

Corrections - show date (if none, write "NONE"): None

Topic Rel

4-2-14
Date


Enrolling Drafter



2013 ASSEMBLY BILL 556

December 12, 2013 - Introduced by Representatives STROEBEL, KRUG, BIES, MURPHY, BORN, MARKLEIN, A. OTT, PRIDEMORE, BROOKS and SMITH, cosponsored by Senator LEIBHAM. Referred to Committee on Judiciary.

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

Analysis by the Legislative Reference Bureau

Under current law, a person may be strip searched when he or she is arrested for any felony, for certain misdemeanors, or for any misdemeanor or civil violation if there is probable cause to believe that the person is concealing a weapon or concealing something that would constitute evidence of the offense for which he or she has been detained.

Current law requires that the person conducting the strip search is the same sex as the person searched (detainee), unless the search is a body cavity search conducted by a physician, physician assistant or registered nurse, that the detainee be shielded from the view of any person not conducting the search, that the search not be video or audio recorded, that the person conducting the search generally obtains the prior written permission from the chief, sheriff, or law enforcement administrator for his or her jurisdiction, and that the person conducting the search prepares and provides to the detainee a written report that sets forth the details of the search and its authorization.

Under current law, those requirements do not apply if the detainee is confined as a condition of probation or to serve a sentence after a criminal conviction, if the detainee is confined in a juvenile correctional facility or secured residential care center, or if the detainee is committed, transferred, or admitted to certain mental health facilities.

ASSEMBLY BILL 556

Under this bill, a person may be strip searched, subject to the requirements imposed under current law, if he or she is arrested or otherwise lawfully detained by law enforcement, and he or she will be incarcerated, imprisoned or otherwise detained in a jail or prison with one or more other persons.

For further information see the *state and local* 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:

1 **SECTION 1.** 968.255 (1) (a) of the statutes is amended to read:

2 968.255 (1) (a) ~~“Detained”~~ “Detainee” means any of the following:

3 1. ~~Arrested~~ A person arrested for any felony.

4 2. ~~Arrested~~ A person arrested for any misdemeanor under s. 167.30 (1), 940.19,
5 941.20 (1), 941.23, 941.237, 941.24, 948.60, or 948.61.

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

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

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

14 968.255 (1) (a) 5. A person arrested or otherwise lawfully detained or taken into
15 custody, if the person will be incarcerated, imprisoned or otherwise detained in a jail
16 or prison with one or more other persons.

INS. AAB-1

INS. AA 4

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

18 968.255 (2) (intro.) No person may be the subject of conduct a strip search
19 unless he or she is a detained person and if all of the following apply:

INS. AAB-2

ASSEMBLY BILL 556

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

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

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

7 968.255 (2) (ag) The person subject to the search is a detainee. INS. AA8-3

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

9 968.255 (2) (b) The ~~detained person~~ detainee is not exposed to the view of any
10 person not conducting the search;.

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

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

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

INS. AA8-4

20

(END)



**ASSEMBLY AMENDMENT 4,
TO ASSEMBLY BILL 556**

February 13, 2014 - Offered by COMMITTEE ON JUDICIARY.

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

2 **1.** Page 2, line 16: after that line insert:

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

4 968.255 (1) (ag) "Jail" includes municipal prisons and rehabilitation facilities
5 established under s. 59.53 (8) by whatever name they are known, but does not include
6 lockup facilities.

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

8 968.255 (1) (ar) "Lockup facilities" means those facilities of a temporary place
9 of detention at a police station that are used exclusively to hold persons under arrest
10 until they can be brought before a court and that are not used to hold persons pending
11 trial who have appeared in court or have been committed to imprisonment for
12 nonpayment of fines or forfeitures."

13

(END)

AA 4



**ASSEMBLY AMENDMENT 8,
TO ASSEMBLY BILL 556**

February 18, 2014 - Offered by Representatives CRAIG, NEYLON, KOOYENGA,
SANFELIPPO, KNUDSON, KESSLER and GOYKE.

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

AA 8-1

2 **1.** Page 2, line 16: after "persons." insert "Subject to subd. 3., for the purpose
3 of this subdivision, "detainee" does not include a juvenile who is taken into custody
4 under s. 938.19 and held in custody under s. 938.209.".

5 **2.** Page 2, line 16: after that line insert:

AA 8-2

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

7 968.255 (1) (b) "Strip search" means a search in which a ~~detained person's~~
8 detainee's genitals, pubic area, buttock or anus, or a ~~detained female person's~~ female
9 detainee's breast, is uncovered and either is exposed to view or is touched by a person
10 conducting the search, except that if the detainee is a person defined in par. (a) 5.,
11 "strip search" means a search in which a detainee's genitals, pubic area, buttock or
12 anus, or a female detainee's breast, is uncovered and exposed to view but is not
13 touched by a person conducting the search unless the touching is necessary to gain

1 the detainee's cooperation with the search or unless the touching is necessary to
2 assist a disabled detainee's cooperation with the search".

3 **3.** Page 3, line 7: after that line insert:

AA8-3

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

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

8 **4.** Page 3, line 19: after that line insert:

AA8-4

9 **SECTION 6m.** 968.255 (6) of the statutes is amended to read:

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

16 (END)