

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB556)

Received: 2/14/2014 Received By: phurley
Wanted: As time permits Same as LRB:
For: Evan Goyke (608) 266-0645 By/Representing:
May Contact: Drafter: phurley
Subject: Correctional System - jails Addl. Drafters:
Extra Copies:

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

Pre Topic:

No specific pre topic given

Topic:

Prohibit physical contact during strip search of nonconvicted juveniles

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	phurley 2/17/2014	scalvin 2/17/2014	rschluet 2/17/2014	_____	sbasford 2/17/2014	sbasford 2/17/2014	

FE Sent For:

<END>

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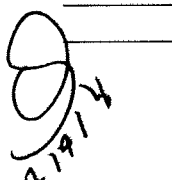
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/1	phurley	/1 SAC 02/17/2014	/1 SAC 02/17/2014				

FE Sent For:


<END>



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2589/1
PJH:sac:jf

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.

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:

Hurley, Peggy

From: Knocke, Ryan
Sent: Monday, February 17, 2014 8:52 AM
To: Hurley, Peggy
Subject: RE: Rep. Goyke floor Amendment AB 556

Peggy-

Thank you for your two questions. I spoke with Rep. Goyke this morning and he felt there was no need to touch the body cavity statute. Your first point will cover it - meaning that juveniles can only be viewed not touched in the strip search.

I hope this is helpful as far as his intent!

- Ryan

From: Hurley, Peggy
Sent: Friday, February 14, 2014 1:44 PM
To: Knocke, Ryan
Subject: RE: Rep. Goyke floor Amendment AB 556

Ryan,

Do you want an exception for a body cavity search, which under current law must be conducted by a physician, physician assistant or a registered nurse? If you do not want an exception, do you want to amend the body cavity provision in s. 968.255 (3) to state that a juvenile detainee may not be subject to a body cavity search?

Peggy

From: Knocke, Ryan
Sent: Friday, February 14, 2014 10:45 AM
To: Hurley, Peggy
Subject: Rep. Goyke floor Amendment AB 556

Peggy-

Thank you so much for all of your help to us. You have been awesome. Rep. Goyke would like to offer on Tuesday the amendment below on the floor that pertains to AB 556. Could this amendment be forwarded for draft? Thank you!

- Ryan

Ryan,

Language for floor amendment on 556:

"Remove the ability of juveniles not yet convicted from being touched by the person conducting the search"

(needed because the definition of strip search, below, would allow that)

(b) "Strip search" means a search in which a detained person's genitals, pubic area, buttock or anus, or a detained female person's breast, is uncovered and either is exposed to view or is touched by a person conducting the search.

Ryan Knocke
Legislative Aide
Office of State Representative Evan Goyke
Telephone: (608) 266-0645



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa1812/1

PJH:f:....

sc

ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 556

*today
1-17*

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

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

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

4 968.255 (1) (b) "Strip search" means a search in which a ~~detained person's~~
5 detainee's genitals, pubic area, buttock or anus, or a ~~detained female person's~~ female
6 detainee's breast, is uncovered and either is exposed to view or is touched by a person
7 conducting the search, except that if the detainee is a juvenile described in par. (a)
8 3., "strip search" means a search in which the detainee's genitals, pubic area, buttock
9 or anus, or the female detainee's breast, is uncovered and exposed to view, but is not
10 touched by the person conducting the search."

11 History: 1979 c. 240; 1981 c. 297; 1987 a. 332; 1991 a. 17; 1993 a. 95, 105; 1995 a. 77, 154; 1997 a. 35; 1999 a. 9; 2001 a. 109; 2005 a. 344; 2011 a. 35.
(END)