2017 DRAFTING REQUEST

Bill

For:

Melissa Sargent (608) 266-0960

Drafter:

mjohns

By:

Britt

Secondary Drafters:

Date:

11/15/2016

May Contact:

Same as LRB:

Submit via email:

YES

Requester's email:

Rep. Sargent@legis.wisconsin.gov

Carbon copy (CC) to:

Melinda.Johns@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Creating a Sexual Assault Victims Bill of Rights

Instructions:

See attached

Drafting	History:
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Vers.	Drafted	Reviewed	Submitted	<u>Jacketed</u>	Required
/?	mjohns 12/19/2016	anienaja 12/20/2016			
/P1	mjohns 4/4/2017	anienaja 4/5/2017	hkohn 12/20/2016		
/P2	mjohns 4/12/2017	anienaja 4/14/2017	lparisi 4/5/2017		
/P3	mjohns 5/18/2017	kfollett 5/18/2017	rmilford 4/14/2017		
/1			lparisi	mbarman	

LRB-0792

Hanaman, Cathlene

From:

Walkenhorst Barber, Sarah

Sent:

Thursday, October 20, 2016 1:08 PM

To:

Vinz, Michaela

Cc:

Collins, Aaron; Hanaman, Cathlene

Subject:

FW: Bill Drafting Request

Hi Michaela,

Thanks for your email. Cathlene Hanaman, who drafts on crime-related issues, is actually going to handle the drafting for this. I have copied her on this email to loop her in.

Best,

Sarah

Sarah Walkenhorst Barber

Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 3215
sarah.walkenhorstbarber@legis.wisconsin.gov

From: Rep.Sargent

Sent: Thursday, October 20, 2016 11:09 AM

To: Walkenhorst Barber, Sarah < Sarah. Walkenhorst Barber@legis.wisconsin.gov>

Cc: Collins, Aaron <Aaron.Collins@legis.wisconsin.gov>

Subject: Bill Drafting Request

Dear Sarah,

Rep. Sargent would like a bill drafted to create a Sexual Assault Victims Bill of Rights.

This bill would ensure that:

- 1. All parties are required to consent before closing joint bank accounts.
- 2. There is a standardized time to keep rape kits, whether tested or untested
 - a. With a conviction, the kit would be kept until the end of the prison sentence.
 - b. Without a conviction, the kit would be kept for 15 years.

Massachusetts and Michigan have created bills that could serve as model legislation.

Massachusetts: https://malegislature.gov/Bills/189/House/H1278

Michigan: http://www.legislature.mi.gov/documents/2013-2014/billintroduced/House/htm/2014-hIB-

5445.htm

Please let myself or Aaron Collins know if you have any questions.

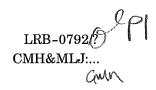
Thank you,

Michaela Vinz



State of Misconsin 2017 - 2018 LEGISLATURE

OUT: 12/20/14H



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



Gen.

1 AN ACT ...; relating to: creating a sexual assault victim bill of rights.

Analysis by the Legislative Reference Bureau

This bill creates a sexual assault victim bill of rights. In addition to the rights extended to crime victims under Wisconsin's basic bill of rights for victims and witnesses, this bill adds the following rights for victims of sexual assault, regardless of whether or not they choose to cooperate with a law enforcement agency: the right to be provided with accurate written information, the right to be advised about and provided with emergency contraception and testing for sexually transmitted diseases, the right to choose whether or not to undergo a sexual assault nurse examination, the right to choose whether or not to cooperate with a law enforcement agency; the right for any examination evidence to be transported to a state crime lab within seven days, the right to have any examination evidence stored for 15 years or until the end of the prison term of the person convicted of the assault against him or her, and the right to not be investigated or prosecuted for a misdemeanor or controlled substances violation based on any evidence obtained in a sexual assault nurse examination.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- **SECTION 1.** 50.375 (2) (b) (intro.) of the statutes is amended to read:
- 3 $\times 50.375$ (2) (b) (intro.) Orally inform Inform the victim orally and in writing of
- 4 all of the following:

2

X

*

1	SECTION 2. 50.375 (2) (b) 4. of the statutes is created to read:
2	\times 50.375 (2) (b) 4. All of her rights under ch. 950.
3	SECTION 3. 50.378 (1m) of the statutes is created to read:
4	imes 50.378 (1m) Notification of victim rights. A hospital that provides emergency
5	services to a victim shall inform the victim of all of his or her rights under ch. 950
6	orally and in writing.
25 \ 7	SECTION 4. 175.405 (2) of the statutes is amended to read:
8	imes 175.405 (2) Whenever a Wisconsin law enforcement agency collects, in a case
9	of alleged or suspected sexual assault, evidence upon which deoxyribonucleic acid
10	analysis can be performed, and the person who committed the alleged or suspected
11	sexual assault has not been identified, the agency shall follow the procedures
12	specified in s. 165.77 (8) and shall, in a timely manner within seven days, submit the
13	evidence it collects to a crime laboratory, as identified in s. 165.75, for storage or
14	testing or both.
	****NOTE: I changed this to seven days to be more in line with the examples you provided, and added the "storing or testing or both" language to clarify who should be storing the evidence, and when.
15	History: 2011 a. 32. SECTION 5. 950.02 (3t) of the statutes is created to read:
16	imes 950.02 (3t) "Sexual assault victim" means a person against whom a crime has
17	been committed under s. 940.22, 940.225 (1) to (3m), 948.02 (1) or (2), 948.025
18	948.05, 948.051, 948.055, 948.06, 948.07 (1) to (4), 948.08, 948.085, 948.095, 948.10
19	948.11 (2) (a) or (am), or 948.12, or s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.
20	SECTION 6. 950.03 of the statutes is renumbered 950.03 (1).
21	History: 1979 c. 219; 1991 a. 159. SECTION 7. 950.03 (2) of the statutes is created to read:

1	$\stackrel{\checkmark}{\times}950.03$ (2) Notwithstanding sub. (1), a sexual assault victim has the rights and
2	is eligible for the services under this chapter regardless of whether the crime has
3	been reported to law enforcement authorities. A victim of sexual assault is under no
$\binom{4}{4}$	obligation to seek medical attention, have administered a sexual assault nurse
5	examination or report the sexual assault to law enforcement authorities.
6 His	SECTION 8. 950.043 of the statutes is created to read:
7	imes 950.043 Bill of rights for victims of sexual assault. In addition to the
8	rights of victims under ss. 950.04 and 950.045 , sexual assault victims have all of the
9	following rights:
10	(1) To receive a sexual assault nurse exam at no charge.
	****Note: Already happening in WI - no charge exam pursuant to federal law
11	(2) To receive oral and written information about his or her rights as as sexual
12	assault victim at the time he or she seeks medical care following a sexual assault, as
13	provided under ss. 50.375 (2) and 50.378 (1m).
	****Note: Some of this is already happening in WI – verbal information given under s. 50.375 and written information provided pursuant to DOJ rules under s. 165.77 (8)
14	(3) To receive emergency contraception under s. 50.375.
15	(4) To receive or decline to receive a medical forensic examination performed
16	by a department-certified sexual assault nurse.
	****Note: Already happening in WI pursuant to DOJ Rules under s. 165.77 (8)
17	(5) To report or decline to report the sexual assault to a law enforcement agency.
	****Note: Victims are already notified of this right by hospitals under S. 50.375
18	(6) To have any evidence collected in a medical forensic examination
19	transported to the state crime laboratories for storage or testing or both within 7 days

of the examination, as provided under s. 175.405.

20

1	(7) If the victim chooses not to cooperate with a law enforcement agency, as
2	defined in s. 949.20 (1), to have all evidence collected in a medical forensic
3	examination stored for a period of 15 years, during which time the sexual assault
4	victim may choose to report the assault to a law enforcement agency.
5	(8) If the victim chooses to cooperate with a law enforcement agency, as defined
6	in s. 949.20 (1), and no conviction results from the medical forensic examination,
7	state crime laboratory testing, and subsequent law enforcement agency
8	investigation, to have all evidence collected in the medical forensic examination
9	stored for a period of 15 years.
10	(9) If the victim chooses to cooperate with a law enforcement agency, as defined
11	in s. 949.20 (1), and a conviction results from the medical forensic examination, state
12	crime laboratory testing, and subsequent law enforcement agency investigation, to
13	have all evidence collected in the medical forensic examination stored until the end
14	of the term of imprisonment or probation of the person who was convicted of the
15	sexual assault.
16	(11) To not have any evidence acquired from a sexual assault nurse
17	examination, including the results of a toxicology report, used to prosecute the victim
18	for any misdemeanor crimes or any crime defined under ch. 961.
19	(12) To not have any evidence acquired from a sexual assault nurse
20	examination, including the results of a toxicology report, used as a basis to search
21	for further evidence of any unrelated misdemeanor crimes or any violation of ch. 961.
22	Section 9. 950.04 (1v) (dL) of the statutes is renumbered 950.043 (10).
23	Section 10. 968.205 (3) (intro.) of the statutes is amended to read:
24	× 968.205 (3) (intro.) Subject Except in sexual assault cases, subject to sub. (5),

a law enforcement agency may destroy evidence that includes biological material

- before the expiration of the time period specified in sub. (2) if all of the following 1
- 2 apply:

History: 2001 a. 16; 2005 a. 60.

*****NOTE: Do you want to create a procedure for the victim to be able to access an online database to be able to check on the status of evidence collected in a sexual assault nurse examination? That's something that appeared in one of the examples provided.

3

(END)

2017-2018 DRAFTING INSERT FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-0792/P1ins CMH&MLJ:amn

INSERT 2-7

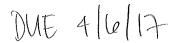
1	SECTION 1. 175.405 (title) of the statutes is amended to read:
2	175.405 (title) Sexual assault; evidence where no suspect has been
3	identified.

History: 2011 a. 32.

END INSERT 2-7



State of Misconsin 2017 - 2018 LEGISLATURE





PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



AN ACT to renumber 950.03 and 950.04 (1v) (dL); to amend 50.375 (2) (b) (intro.), 175.405 (title), 175.405 (2) and 968.205 (3) (intro.); and to create 50.375 (2) (b) 4., 50.378 (1m), 950.02 (3t), 950.03 (2) and 950.043 of the statutes; relating to: creating a sexual assault victim bill of rights.

Analysis by the Legislative Reference Bureau

This bill creates a sexual assault victim bill of rights. In addition to the rights extended to crime victims under Wisconsin's basic bill of rights for victims and witnesses, this bill adds the following rights for victims of sexual assault, regardless of whether or not they choose to cooperate with a law enforcement agency: the right to be provided with accurate written information about his or her rights as a sexual assault victim; the right to be advised about and provided with emergency contraception and testing for sexually transmitted diseases; the right to choose whether or not to undergo a sexual assault nurse examination; the right to choose whether or not to cooperate with a law enforcement agency; the right for any examination evidence to be transported to a state crime lab within seven days; the right to have any examination evidence stored for 15 years or until the end of the prison term of the person convicted of the assault against him or her; and the right

to not be investigated or prosecuted for a misdemeanor or controlled substances violation based on any evidence obtained in a sexual assault nurse examination.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1	SECTION 1. 50.375 (2) (b) (intro.) of the statutes is amended to read:
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3	all of the following:
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8	services to a victim shall inform the victim of all of his or her rights under ch. 950
9	orally and in writing.
10	Section 4. 175.405 (title) of the statutes is amended to read:
11	175.405 (title) Sexual assault; evidence where no suspect has been
12	identified.
13	Section 5. 175.405 (2) of the statutes is amended to read:
14	175.405 (2) Whenever a Wisconsin law enforcement agency collects, in a case
15	of alleged or suspected sexual assault, evidence upon which deoxyribonucleic acid
16	analysis can be performed, and the person who committed the alleged or suspected
17	sexual assault has not been identified, the agency shall follow the procedures
18	specified in s. 165.77 (8) and shall, in a timely manner within 7 days, submit the
10	
19	evidence it collects to a crime laboratory, as identified in s. 165.75, for storage or

****NOTE: I changed this to seven days to be more in line with the examples you provided, and added the "storing or testing or both" language to clarify who should be storing the evidence, and when.

1 **Section 6.** 950.02 (3t) of the statutes is created to read: 2 950.02 (3t) "Sexual assault victim" means a person against whom a crime has 3 been committed under s. 940.22, 940.225 (1) to (3m), 948.02 (1) or (2), 948.025, 4 948.05, 948.051, 948.055, 948.06, 948.07 (1) to (4), 948.08, 948.085, 948.095, 948.10. 5 948.11 (2) (a) or (am), or 948.12, or s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies. 6 **SECTION 7.** 950.03 of the statutes is renumbered 950.03 (1). 7 **Section 8.** 950.03 (2) of the statutes is created to read: 8 950.03 (2) Notwithstanding sub. (1), a sexual assault victim has the rights and 9 is eligible for the services under this chapter regardless of whether the crime has 10 been reported to law enforcement authorities. A victim of sexual assault is under no 11 obligation to seek medical attention, to have a sexual assault nurse examination 12 administered, or to report the sexual assault to law enforcement authorities. 13 **SECTION 9.** 950.04 (1v) (dL) of the statutes is renumbered 950.043 (10). 14 **Section 10.** 950.043 of the statutes is created to read: 15 950.043 Bill of rights for victims of sexual assault. In addition to the 16 rights of victims under ss. 950.04 and 950.045, sexual assault victims have all of the 17 following rights: 18 (1) To receive a sexual assault nurse examination at no charge. ****Note: Already happening in WI - no charge exam pursuant to federal law. 19 (2) To receive oral and written information about his or her rights as a sexual 20 assault victim at the time he or she seeks medical care following a sexual assault, as 21 provided under ss. 50.375 (2) and 50.378 (1m).

****Note: Some of this is already happening in WI – verbal information given under s. 50.375 and written information provided pursuant to DOJ rules under s. 165.77 (8).

22

sexual assault.

1	(3) To receive emergency contraception under s. 50.375.
2	(4) To receive or decline to receive a medical forensic examination performed
3	by a department-certified sexual assault nurse.
	****Note: Already happening in WI pursuant to DOJ rules under s. 165.77 (8).
4	(5) To report or decline to report the sexual assault to a law enforcement agency.
	****Note: Victims are already notified of this right by hospitals under s. 50.375.
5	(6) To have any evidence collected in a medical forensic examination
6	transported to the state crime laboratories for storage or testing or both within 7 days
7	of the examination, as provided under s. 175.405.
8	(7) If the victim chooses not to cooperate with a law enforcement agency, as
9	defined in s. 949.20 (1), to have all evidence collected in a medical forensic
10	examination stored for a period of 15 years, during which time the sexual assault
11	victim may choose to report the assault to a law enforcement agency.
12	(8) If the victim chooses to cooperate with a law enforcement agency, as defined
13	in s. 949.20 (1), and no conviction results from the medical forensic examination,
14	state crime laboratory testing, and subsequent law enforcement agency
15	investigation, to have all evidence collected in the medical forensic examination
16	stored for a period of 15 years.
17	(9) If the victim chooses to cooperate with a law enforcement agency, as defined
18	in s. 949.20 (1), and a conviction results from the medical forensic examination, state
19	crime laboratory testing, and subsequent law enforcement agency investigation, to
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(11) To not have any evidence acquired from a sexual assault	nurse
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(12) To not have any evidence acquired from a sexual assault:	nurse
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Section 11. 968.205 (3) (intro.) of the statutes is amended to read:	
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****Note: Do you want to create a procedure for the victim to be able to access an online database to be able to check on the status of evidence collected in a sexual assault nurse examination? That's something that appeared in one of the examples provided.	n t

(END)

WISCONSIN LEGISLATIVE REFERENCE BUREAU

Information Services 608-266-0341—Legal Services 608-266-3561

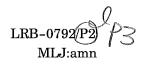


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State of Misconsin 2017 - 2018 LEGISLATURE





PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



AN ACT to renumber 950.03 and 950.04 (1v) (dL); to amend 50.375 (2) (b) (intro.), 175.405 (title), 175.405 (2) and 968.205 (3) (intro.); and to create 50.375 (2) (b) 4., 50.378 (1m), 950.02 (3t), 950.03 (2) and 950.043 of the statutes; relating to: creating a sexual assault victim bill of rights.

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This bill creates a sexual assault victim bill of rights. In addition to the rights extended to crime victims under Wisconsin's basic bill of rights for victims and witnesses, this bill adds the following rights for victims of sexual assault, regardless of whether or not they choose to cooperate with a law enforcement agency: the right to be provided with accurate written information about his or her rights as a sexual assault victim; the right to be advised about and provided with emergency contraception and testing for sexually transmitted diseases; the right to choose whether or not to undergo a sexual assault nurse examination; the right to choose whether or not to cooperate with a law enforcement agency; the right for any examination evidence to be transported to a state crime lab within seven days; the right to have any examination evidence stored for 15 years or until the end of the prison term of the person convicted of the assault against him or her; and the right

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3	all of the following:
4	SECTION 2. 50.375 (2) (b) 4. of the statutes is created to read:
5	50.375 (2) (b) 4. All of her rights under ch. 950.
6	Section 3. 50.378 (1m) of the statutes is created to read:
7	50.378 (1m) NOTIFICATION OF VICTIM RIGHTS. A hospital that provides emergency
8	services to a victim shall inform the victim of all of his or her rights under ch. 950
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10	Section 4. 175.405 (title) of the statutes is amended to read:
11	175.405 (title) Sexual assault; evidence where no suspect has been
12	identified.
13	Section 5. 175.405 (2) of the statutes is amended to read:
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15	of alleged or suspected sexual assault, evidence upon which deoxyribonucleic acid
16	analysis can be performed, and the person who committed the alleged or suspected
17	sexual assault has not been identified, the agency shall follow the procedures
18	specified in s. 165.77 (8) and shall, in a timely manner within 7 days, submit the
19	evidence it collects to a crime laboratory, as identified in s. 165.75, for storage or
20	testing or both.
21	SECTION 6. 950.02 (3t) of the statutes is created to read:

1	950.02 (3t) "Sexual assault victim" means a person against whom a crime has
2	been committed under s. 940.22, 940.225 (1) to (3m), 948.02 (1) or (2), 948.025,
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4	948.11 (2) (a) or (am), or 948.12, or s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies.
5	SECTION 7. 950.03 of the statutes is renumbered 950.03 (1).
6	SECTION 8. 950.03 (2) of the statutes is created to read:
7	950.03 (2) Notwithstanding sub. (1), a sexual assault victim has the rights and
8	is eligible for the services under this chapter regardless of whether the crime has
9	been reported to law enforcement authorities. A victim of sexual assault is under no
10	obligation to seek medical attention, to have a sexual assault nurse examination
11	administered, or to report the sexual assault to law enforcement authorities.
12	Section 9. 950.04 (1v) (dL) of the statutes is renumbered 950.043 (10).
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14	950.043 Bill of rights for victims of sexual assault. In addition to the
15	rights of victims under ss. 950.04 and 950.045, sexual assault victims have all of the
16	following rights:
17	(1) To receive a sexual assault nurse examination at no charge.
18	(2) To receive oral and written information about his or her rights as a sexual
19	assault victim at the time he or she seeks medical care following a sexual assault, as
20	provided under ss. 50.375 (2) and 50.378 (1m).
21	(3) To receive emergency contraception under s. 50.375.
22	(4) To receive or decline to receive a medical forensic examination performed
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24	(5) To report or decline to report the sexual assault to a law enforcement agency.

- (6) To have any evidence collected in a medical forensic examination transported to the state crime laboratories for storage or testing or both within 7 days of the examination, as provided under s. 175.405.
- (7) If the victim chooses not to cooperate with a law enforcement agency, as defined in s. 949.20 (1), to have all evidence collected in a medical forensic examination stored for a period of 15 years, during which time the sexual assault victim may choose to report the assault to a law enforcement agency.
- (8) If the victim chooses to cooperate with a law enforcement agency, as defined in s. 949.20 (1), and no conviction results from the medical forensic examination, state crime laboratory testing, and subsequent law enforcement agency investigation, to have all evidence collected in the medical forensic examination stored for a period of 15 years.
- (9) If the victim chooses to cooperate with a law enforcement agency, as defined in s. 949.20 (1), and a conviction results from the medical forensic examination, state crime laboratory testing, and subsequent law enforcement agency investigation, to have all evidence collected in the medical forensic examination stored until the end of the term of imprisonment or probation of the person who was convicted of the sexual assault.
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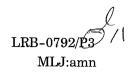
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(END)



State of Misconsin 2017 - 2018 LEGISLATURE



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12	Section 9. 950.04 (1v) (dL) of the statutes is renumbered 950.043 (10).
13	Section 10. 950.043 of the statutes is created to read:
14	950.043 Bill of rights for victims of sexual assault. In addition to the
15	rights of victims under ss. 950.04 and 950.045 , sexual assault victims have all of the
16	following rights:
17	(1) To receive a sexual assault nurse examination at no charge.
18	(2) To receive oral and written information about his or her rights as a sexual
19	assault victim at the time he or she seeks medical care following a sexual assault, as
20	provided under ss. 50.375 (2) and 50.378 (1m).
21	(3) To receive emergency contraception under s. 50.375.
22	(4) To receive or decline to receive a medical forensic examination performed
23	by a department-certified sexual assault nurse.
24	(5) To report or decline to report the sexual assault to a law enforcement agency.

- (6) To have any evidence collected in a medical forensic examination transported to the state crime laboratories for storage or testing or both within 30 days of the examination, as provided under s. 175.405.
- (7) If the victim chooses not to cooperate with a law enforcement agency, as defined in s. 949.20 (1), to have all evidence collected in a medical forensic examination stored for a period of 15 years, during which time the sexual assault victim may choose to report the assault to a law enforcement agency.
- (8) If the victim chooses to cooperate with a law enforcement agency, as defined in s. 949.20 (1), and no conviction results from the medical forensic examination, state crime laboratory testing, and subsequent law enforcement agency investigation, to have all evidence collected in the medical forensic examination stored for a period of 15 years.
- (9) If the victim chooses to cooperate with a law enforcement agency, as defined in s. 949.20 (1), and a conviction results from the medical forensic examination, state crime laboratory testing, and subsequent law enforcement agency investigation, to have all evidence collected in the medical forensic examination stored until the end of the term of imprisonment or probation of the person who was convicted of the sexual assault.
- (11) To not have any evidence acquired from a sexual assault nurse examination, including the results of a toxicology report, used to prosecute the victim for any misdemeanor crimes or any crime defined under ch. 961.
- (12) To not have any evidence acquired from a sexual assault nurse examination, including the results of a toxicology report, used as a basis to search for further evidence of any unrelated misdemeanor crimes or any violation of ch. 961.
 - **Section 11.** 968.205 (3) (intro.) of the statutes is amended to read:

968.205 (3) (intro.) Subject Except in sexual assault cases, subject to sub. (5),
a law enforcement agency may destroy evidence that includes biological material
before the expiration of the time period specified in sub. (2) if all of the following
apply:

1

2

3

4

(END)

Barman, Mike

From:

Cudaback, Britt

Sent:

Thursday, May 18, 2017 2:19 PM

To:

LRB.Legal

Subject:

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Please Jacket LRB -0792/1 for the ASSEMBLY.