

1979 Assembly Bill 744

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## CHAPTER 240, Laws of 1979

AN ACT to create 968.255 and 968.256 of the statutes, relating to searches and providing a penalty.

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

SECTION 1. 968.255 and 968.256 of the statutes are created to read:

**968.255 Strip searches.** (1) In this section:

(a) "Detained" means any of the following:

1. Arrested for any felony.
2. Arrested for any misdemeanor under s. 167.30, 940.19, 941.20 (1), 941.22, 941.23 or 941.24.
3. Taken into custody under s. 48.19 and there are reasonable grounds to believe the child has committed an act which if committed by an adult would be covered under subd. 1 or 2.
4. Arrested for any misdemeanor not specified in subd. 2, any other violation of state law punishable by forfeiture or any local ordinance if there is probable cause to believe the person is concealing a weapon or a thing which may constitute evidence of the offense for which he or she is detained.

(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.

(2) No person may be the subject of a strip search unless he or she is a detained person and if:

(a) The person conducting the search is of the same sex as the person detained, unless the search is a body cavity search conducted under sub. (3);

(b) The detained person is not exposed to the view of any person not conducting the search;

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

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

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

(3) No person other than a physician, physician's assistant or registered nurse licensed to practice in this state may conduct a body cavity search.

(4) A person who intentionally violates this section may be fined not more than \$1,000 or imprisoned not more than 90 days or both.

(5) This section does not limit the rights of any person to civil damages or injunctive relief.

(6) A law enforcement agency, as defined in s. 165.83 (1) (b), may promulgate rules concerning strip searches which at least meet the minimum requirements of this section.

(7) This section does not apply to a search of any person who is serving a sentence, pursuant to a conviction, in a jail, state prison or house of correction.

**968.256 Search of physically disabled person.** (1) In this section, "physically disabled person" means a person who requires an assistive device for mobility, including, but not limited to, a wheelchair, brace, crutch or artificial limb.

(2) A search of a physically disabled person shall be conducted in a careful manner. If a search of a physically disabled person requires the removal of an assistive device or involves a person lacking sensation in some portion of his or her body, the search shall be conducted with extreme care by a person who has had training in handling physically disabled persons.

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