

State of Wisconsin



2013 Assembly Bill 556

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2013 WISCONSIN ACT 317

AN ACT *to renumber and amend* 968.255 (2) (a); *to amend* 968.255 (1) (a), 968.255 (1) (b), 968.255 (2) (intro.), 968.255 (2) (b), (c), (d) and (e) and 968.255 (6); and *to create* 968.255 (1) (a) 5., 968.255 (1) (ag), 968.255 (1) (ar), 968.255 (2) (ag) and 968.255 (2) (ar) of the statutes; **relating to:** strip searches.

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

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

968.255 (1) (a) "~~Detained~~" "Detainee" means any of the following:

1. ~~Arrested~~ A person arrested for any felony.
2. ~~Arrested~~ A person arrested for any misdemeanor under s. 167.30 (1), 940.19, 941.20 (1), 941.23, 941.237, 941.24, 948.60, or 948.61.
3. ~~Taken~~ A person taken into custody under s. 938.19 and there are reasonable grounds to believe the juvenile has committed an act which if committed by an adult would be covered under subd. 1. or 2.
4. ~~Arrested~~ A person 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.

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

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

3., for the purpose of this subdivision, "detainee" does not include a juvenile who is taken into custody under s. 938.19 and held in custody under s. 938.209.

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

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

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

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

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

968.255 (1) (b) "Strip search" means a search in which a ~~detained person's~~ detainee's genitals, pubic area, buttock or anus, or a ~~detained female person's~~ female detainee's breast, is uncovered and either is exposed to view or is touched by a person conducting the search, except that if the detainee is a person defined in par. (a) 5., "strip search" means a search in which a detainee's

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

genitals, pubic area, buttock or anus, or a female detainee's breast, is uncovered and exposed to view but is not touched by a person conducting the search unless the touching is necessary to gain the detainee's cooperation with the search or unless the touching is necessary to assist a disabled detainee's cooperation with the search.

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

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

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

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

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

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

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

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

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

968.255 (2) (b) The ~~detained person~~ detainee 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~~ detainee 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~~ detainee.

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

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