



1995 ASSEMBLY BILL 831

January 30, 1996 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary.

- 1 AN ACT *to amend* 801.50 (4) (b) of the statutes; **relating to:** venue in certain
2 habeas corpus actions.

Analysis by the Legislative Reference Bureau

Under current law, a person who is challenging the legality of his or her detention by seeking a writ of habeas corpus (an order directing that the person be released from illegal detention) must file a petition for the writ in the circuit court that is located in the appropriate county. The appropriate county for filing the petition for a writ of habeas corpus is determined based on which one of the following 2 situations applies to the person: 1) if the person is seeking relief from a judgment of conviction or sentence under which he or she is detained, the petition must be filed in the county where the person was convicted or sentenced; or 2) if the person is seeking relief concerning any other matter relating to his or her detention, the petition must be filed in the county "where the liberty of the [person] is restrained". With respect to a person seeking a writ of habeas corpus in the 2nd situation, the court of appeals has found the requirement relating to the county "where the liberty of the [person] is restrained" to be ambiguous. The court of appeals interpreted the requirement to mean the county where the person is confined. *State ex rel. Frederick v. McCaughtry*, 173 Wis. 2d 222, 228-29 (Ct. App. 1992). This bill codifies the court of appeals decision by specifying that, if a person is seeking a writ of habeas corpus in the 2nd situation described above, he or she must file the petition for a writ of habeas corpus in the county where he or she is confined.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is introduced by the law revision committee under s. 13.83 (1) (c), stats. After careful consideration of the various

