



2021 ASSEMBLY BILL 1024

February 17, 2022 - Introduced by LAW REVISION COMMITTEE. Referred to
Committee on Rules.

1 **AN ACT to amend** 165.84 (1) and 227.48 (1) of the statutes; **relating to:** removal
2 of fingerprint records of individuals arrested or taken into custody and
3 subsequently released without charge or cleared of the offense and service by
4 electronic mail of decisions by the Division of Hearings and Appeals (suggested
5 as remedial legislation by the Department of Justice).

Analysis by the Legislative Reference Bureau

Fingerprint records of individuals arrested or taken into custody

Under current law, the Department of Justice is required to return the fingerprint record of any person who is arrested or taken into custody and subsequently released without charges being filed or cleared of the offense through a court proceeding. This bill provides that under such a circumstance, the fingerprint record must be removed from the department's records upon request. This change reflects the change in DOJ practice from using paper fingerprint cards to an electronic fingerprinting system.

Electronic mail service of decisions by the Division of Hearings and Appeals

Under current law, decisions made by the Division of Hearings and Appeals may be served by personal delivery or by mailing a copy to each party to the proceedings or to the party's attorney. This bill provides that such a decision may also be served by e-mail with the parties consent.

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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 a remedial legislation proposal, requested by the Department of Justice and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 165.84 (1) of the statutes is amended to read:

2 165.84 (1) All persons in charge of law enforcement and tribal law enforcement
3 agencies shall obtain, or cause to be obtained, the fingerprints in duplicate, according
4 to the fingerprint system of identification established by the director of the F.B.I., full
5 face, profile and full length photographs, and other available identifying data, of
6 each person arrested or taken into custody for an offense of a type designated in s.
7 165.83 (2) (a), of all persons arrested or taken into custody as fugitives from justice,
8 and fingerprints in duplicate and other identifying data of all unidentified human
9 corpses in their jurisdictions, but photographs need not be taken if it is known that
10 photographs of the type listed, taken within the previous year, are on file at the
11 department. Fingerprints and other identifying data of persons arrested or taken
12 into custody for offenses other than those designated in s. 165.83 (2) (a) may be taken
13 at the discretion of the law enforcement or tribal law enforcement agency concerned.
14 Any person arrested or taken into custody and subsequently released without
15 charge, or cleared of the offense through court proceedings, shall have any
16 fingerprint record taken in connection therewith ~~returned~~ removed from the
17 department's records upon request.

NOTE: This SECTION requires the Department of Justice to delete certain fingerprint images from its records instead of returning fingerprint cards to persons who

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are released from custody without charge or cleared of the offense for which the fingerprints were taken; the change reflects the transition from the use of fingerprint cards to the use of electronic images.

1 **SECTION 2.** 227.48 (1) of the statutes is amended to read:

2 227.48 (1) Except as provided in s. 196.40, every decision when made, signed
3 and filed, shall be served forthwith by personal delivery or by mailing of or, with the
4 consent of the parties, by electronically mailing a copy to each party to the
5 proceedings or to the party's attorney of record.

NOTE: This SECTION allows the Division of Hearings and Appeals to serve a copy of its decisions by personal delivery, mailing, or electronic mailing to each party to the proceedings.

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(END)