



## 2013 ASSEMBLY BILL 315

August 23, 2013 – Introduced by Representatives HEBL, MASON, GOYKE, KESSLER, SMITH, KOLSTE, BERNARD SCHABER, DANOU, SINICKI, BERCEAU, RICHARDS, WRIGHT, POPE, YOUNG, WACHS, JORGENSEN, OHNSTAD, VRUWINK and MILROY, cosponsored by Senator L. TAYLOR. Referred to Joint Committee on Finance.

1     **AN ACT** *to repeal* 165.77 (4) (am) 2. b. and 165.77 (4) (am) 3. b.; and *to create*  
2             165.77 (4) (cm) of the statutes; **relating to:** expungement of deoxyribonucleic  
3             acid from crime laboratories if person not adjudicated guilty or delinquent.

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### *Analysis by the Legislative Reference Bureau*

Under current law, certain individuals are required to submit biological specimens to the crime laboratories in the Department of Justice (DOJ) for deoxyribonucleic acid (DNA) analysis and inclusion of the DNA profile in the data bank. These individuals include a juvenile who has been adjudicated delinquent for certain offenses and an individual who has been found guilty of certain offenses. Beginning April 1, 2015, law enforcement agencies must obtain a biological specimen from each individual arrested for a felony or taken into custody for a juvenile offense that would be a felony if committed by an adult. These specimens will be submitted to the crime laboratories for analysis and inclusion in the data banks only upon certain circumstances; otherwise, the law enforcement agency must destroy the specimen within one year of obtaining it. If, at the time the individual is charged with the felony offense, the court determines that a biological specimen was not obtained when he or she was arrested or taken into custody, the court must order a law enforcement agency to obtain the specimen.

Under current law, an individual whose DNA data are in the data bank due to a conviction or adjudication may request expungement on the grounds that the conviction or adjudication has been reversed, set aside, or vacated. If the crime laboratories receive a certified copy of the court order reversing, setting aside, or

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vacating the conviction or adjudication, the laboratories must purge all records and identifiable information in the data bank pertaining to the individual and destroy all samples from the individual. Beginning April 1, 2015, if an individual submitted a specimen at arrest or when taken into custody, or by court order if, when the charges were filed, the judge determined that the individual had not submitted a specimen, DOJ must similarly purge all records and information upon a written request from the individual if all charges requiring submission have been dismissed; if the trial court reached a final disposition and the individual was not found guilty of any charges requiring submission; if at least one year has passed since the arrest and the individual has not been charged; or if the individual was found guilty of a crime requiring submission but all such convictions have since been reversed, set aside, or vacated.

Under this bill, beginning April 1, 2015, if a court reaches final disposition for all charges or allegations for which a person was required to provide a biological specimen at arrest or charging and the person is not adjudged guilty or delinquent on any such charge or allegation, the court must inform DOJ. Then DOJ must purge all records and information, and destroy all samples, in the data bank pertaining to the person.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 165.77 (4) (am) 2. b. of the statutes, as created by 2013 Wisconsin  
2 Act 20, is repealed.

3           **SECTION 2.** 165.77 (4) (am) 3. b. of the statutes, as created by 2013 Wisconsin  
4 Act 20, is repealed.

5           **SECTION 3.** 165.77 (4) (cm) of the statutes is created to read:

6           165.77 (4) (cm) If a court reaches final disposition for any charge or allegation  
7 for which a person was required to provide a biological specimen under s. 165.84 (7),  
8 938.21 (1m), 938.30 (2m), or 970.02 (8) and the person is not adjudged guilty or  
9 delinquent for any such charge or allegation, the court shall inform the department.  
10 Upon receiving such information, the laboratories shall purge all records and

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1 identifiable information in the data bank pertaining to the person, and destroy all  
2 samples from the person, related to that charge or allegation.

3 **SECTION 4. Effective date.**

4 (1) This act takes effect on April 1, 2015, or on the day after publication,  
5 whichever is later.

6 (END)