LRB-0261/1 CMH:amn

2021 ASSEMBLY BILL 541

September 10, 2021 - Introduced by Representatives Hebl, Baldeh, Bowen, Drake, L. Myers, Ohnstad, Sinicki, Spreitzer, Subeck, Mursau and Stubbs, cosponsored by Senators L. Taylor, Agard, Bewley, Carpenter and Stroebel. Referred to Committee on Criminal Justice and Public Safety.

AN ACT to repeal 165.77 (4) (am) 2. b. and 165.77 (4) (am) 3. b.; and to create

165.77 (4) (cm) of the statutes; relating to: expungement of deoxyribonucleic

acid from crime laboratories if the person is not found guilty or adjudicated

delinquent.

Analysis by the Legislative Reference Bureau

Current law requires certain persons who have not been convicted of a crime to provide a biological sample to the Department of Justice for deoxyribonucleic acid (DNA) analysis, including a person who has been charged with or arrested for a violent crime or a juvenile who has been taken in custody on the basis of a violation that would be a violent crime if committed by an adult. Under current law, if final disposition is reached on all charges without a guilty or delinquent verdict, the person may request DOJ to purge all DNA records and information, and destroy all biological samples, pertaining to that person.

Under this bill, if a court reaches final disposition for all charges and allegations for which a person was required to provide a biological sample to DOJ for DNA analysis and the person is not found guilty or delinquent on any such charge or allegation, the court must inform DOJ. DOJ must then purge all DNA records and information, and destroy all biological samples, pertaining to that person.

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

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

- **SECTION 1.** 165.77 (4) (am) 2. b. of the statutes is repealed.
- 2 **Section 2.** 165.77 (4) (am) 3. b. of the statutes is repealed.
- 3 **Section 3.** 165.77 (4) (cm) of the statutes is created to read:

165.77 (4) (cm) If a court reaches final disposition for all charges and allegations for which a person was required to provide a biological specimen under s. 165.84 (7), 938.21 (1m), 938.30 (2m), or 970.02 (8) and the person is not adjudged guilty or delinquent for any such charge or allegation, the court shall inform the department. Upon receiving such information, the laboratories shall purge all records and identifiable information in the data bank pertaining to the person, and destroy all samples from the person, related to those charges and allegations. The laboratories shall maintain any record, information, or sample, however, if the person is otherwise obligated to have a specimen in the data bank and complying with a requirement under this paragraph would result in a need to obtain a new specimen from the person.

Section 4. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.

18 (END)