



# TERRY KATSMAS

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**Date:** January 7, 2016  
**To:** Senate Committee on Judiciary and Public Safety  
**From:** Representative Terry Katsma  
**Re:** Senate Bill 383: immunity for complying with court-ordered searches

Dear Chairman Wanggaard and Committee Members,

Thank you for convening a public hearing on Senate Bill (SB) 383, a bill that would provide legal protection for the hospital employees and their employers who execute court-ordered body cavity searches.

Under current law, medical personnel and their employers who draw blood from criminal suspects to determine the presence of alcohol are immune from civil or criminal liability—even if the suspect does not consent to the procedure—unless they are negligent in performing the act. SB 383 would extend the same protection to medical personnel who agree to execute court-ordered body cavity searches, typically for concealed drugs.

In practice, when probable cause exists that a criminal suspect has hidden drugs inside his or her body, law enforcement officers obtain a search warrant. Statute requires that such a body cavity search be conducted only by a licensed physician, physician's assistant or registered nurse—not police or corrections officers. Therefore, for the safety of the criminal suspect and everyone who might come in contact with the suspect, the law enforcement community relies upon the availability of medical personnel who are willing to perform these procedures.

The need for legislative action was brought to my attention by law enforcement officials in my district. Recently, some hospital officials have begun instructing their employees to obtain consent from criminal suspects prior to performing court-ordered body cavity searches—and, if a suspect refuses to give consent, instructing employees not to conduct the procedure. SB 383 provides medical employers and employees with the confidence that they may assist law enforcement personnel in the performance of their duties without fear of personal or professional ruin.

In Wisconsin's fight against illegal drugs, communities depend heavily on relationships among local law enforcement and medical partners. I urge you to support this measure to protect and encourage these relationships, thereby closing a loophole that can benefit only bad actors.



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# DEVIN LEMAHIEU

## STATE SENATOR

DATE: January 7<sup>th</sup>, 2015  
RE: **Testimony on 2015 Senate Bill 383**  
TO: The Senate Committee on Judiciary and Public Safety  
FROM: Senator Devin LeMahieu

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Mr. Chairman and committee members, thank you for taking time today to discuss Senate Bill 383, which will provide immunity from civil and criminal liability to certain health care professionals for performing court ordered body cavity searches.

We introduced this legislation on behalf of the Sheboygan County District Attorney and local law enforcement. After meeting with local officials, we learned that there is a growing concern from hospital officials that they could be held liable for performing court ordered cavity searches. In response to this fear, hospital officials have begun asking criminal suspects for consent before conducting the search. This practice has undermined the purpose of cavity searches and could potentially put drug dealers back on the streets without reprimand.

Senate Bill 383 clarifies state law to provide necessary protection for health care professionals so that they can perform searches without fear of being sued. Medical professionals already receive immunity to draw blood for OWI tests. This bill would extend the same protections to cavity searches.

It is important to note that this protection is only available for cavity searches deemed necessary through the search warrant process. Health professionals performing these searches would still be expected to follow standard medical practices. Any health professionals that act wrongfully or in a negligent manner would not be protected under this bill.

Now we would like to turn it over to our local law enforcement officials who can provide additional information about this issue. Thank you for your time, I hope you will join us in supporting this important public safety measure.