

# Testimony on AB 137 – Establishing a Senior Court Program

Wednesday, April 23<sup>rd</sup>, 2003  
Committee on Corrections and the Courts

- Chairman Bies, fellow members of the committee, thank you for hearing my bill, AB 137 this morning
- The purpose of this bill is to allow the chief administrative judge of a judicial administrative district to set up a Senior Court program in their jurisdiction
- This program is similar to the Teen Court Program, but the age of those eligible are adults under age 25
- The articles that have been passed around show a successful program that is similar to the Senior Court program in Outagamie county.
- My bill is different than current law in several ways:
  - AB 137 limits the age of people who can participate to people from 18 years old through 24 years old when the crime is committed (the Outagamie County program allows 17 through 21 year old people)
  - The order for placement in a Senior Court program may not require the defendant to be confined
  - AB 137 allows defendants to enter into the program BEFORE conviction, however they must enter into a suspended prosecution agreement with the District Attorney and the court and the defendant is subject to any condition established in the suspended prosecution agreement
  - If the defendant enters into the program before conviction and successfully completes the program the charges are dismissed, *again this dismissal only applies if the defendant has not already been convicted*

- This bill expanded the number of people in the state who would be eligible to participate in “volunteers in probation programs.”
- Gives the courts more flexibility than allowed under current law
- Some other things to note about the bill:
  - Individuals who are not normally predisposed to criminal activity, but make a one-time mistake, is allowed to have the entry of conviction withheld and the case ultimately dismissed – (college students often come to mind when thinking of this)
  - The fiscal effect looks to be minimal or nearly non-existent
  - Permitting the courts to allow individuals to make restitution without a conviction may help them in the future without putting a mark on their record while they pay their debt to society
  - If the offender attempts to take advantage of the program and violates the conditions of the court order/deferred prosecution agreement the court may enter a judgment of conviction if it was not previously entered, impose a sentence, revise the conditions or the length of the order or continue the order
- Again, thank you for allowing me to testify on AB 137. I am happy to answer any questions you may have.



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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: MEMBERS OF THE ASSEMBLY COMMITTEE ON CORRECTIONS AND THE COURTS

FROM:  Philip G. Cardis, Staff Attorney

RE: 2003 Assembly Bill 137, Relating to Senior Court Program

DATE: May 7, 2003

This memorandum addresses 2003 Assembly Bill 137, which authorizes the creation of senior court programs. The bill was introduced by Representative Owens; cosponsored by Senator Roessler on March 6, 2003. The Assembly Committee on Corrections and the Courts held a public hearing on the bill on April 23, 2003.

### CURRENT LAW

Under current law, if a defendant pleads guilty or no contest to or is convicted of one or more misdemeanors for which imprisonment is not required, the court may (1) enter a judgment of conviction and impose a sentence (i.e. probation); or (2) withhold the entry of judgment or the sentence and order the defendant to be placed with a volunteers in probation program.

The defendant's participation in the volunteers in probation program is subject to conditions set by the court in its order, which may include a requirement that the defendant be confined for specified periods of time. If the defendant complies with the placement order, the court discharges the defendant and, unless the defendant was previously convicted, dismisses the case. If the defendant does not comply with the order, the court may impose a sentence or modify or continue the order.

### 2003 ASSEMBLY BILL 137

2003 Assembly Bill 137 permits the chief judge of a judicial administrative district to approve a senior court program established in a county within the district. Under the bill, if a defendant: (1) pleads guilty or no contest to or is convicted of one or more misdemeanors for which imprisonment is not required; and (2) the defendant was less than 25 years old at the time of each offense, the court *may* withhold the entry of judgment or the sentence and order the defendant to be placed with an approved

senior court program. While in the program, the defendant is not on probation and the Department of Corrections is not responsible for supervising the defendant.

The defendant's participation in the senior court program is subject to conditions set by the court in its order. However, the court order may not require the defendant to be confined. In addition, if the defendant is placed in the program before conviction, the defendant must enter into a suspended prosecution agreement with the district attorney and the court and is subject to any conditions established in that agreement.

If the defendant complies with the placement order and, if applicable, the suspended prosecution agreement, the court discharges the defendant or dismisses the case. If the defendant does not comply with the order or a suspended prosecution agreement, the court may: (1) enter a judgment of conviction if it was not previously entered; (2) impose a sentence; (3) revise the conditions or the length of the order; or (4) continue the order.

The senior court program created by this bill may not be used in juvenile delinquency proceedings.

### DISCUSSION

At the public hearing on the bill, Representative Owens distributed an article describing a senior court program in Outagamie County (attached). Assembly Bill 137 would permit courts to establish a senior court, as described in the article, by creating a mechanism under which criminal proceedings are suspended in order to give the defendant the opportunity to participate in a senior court program. However, the bill does not prescribe the specifics of what a senior court program is. Therefore, aspects such as the structure and make-up of each senior court could vary by county.

If you have any questions, please feel free to contact me at 267-0683 at the Legislative Council staff offices.

PGC:tlu;ksm

Attachment

AB 137

[www.jsonline.com](http://www.jsonline.com)[Return to regular view](#)Original URL: <http://www.jsonline.com/news/state/sep01/out29092801a.asp>

## First-time offenders face their elders

### Seniors impose penalties in Outagamie program

By CHRIS NELSON  
Special to the Journal Sentinel

*Last Updated: Sept. 28, 2001*

**Appleton** - Young first-time offenders who commit minor crimes in Outagamie County are getting a second chance under a new program in which they appear before a panel of senior citizens instead of a judge or jury.

The "community court" program, the only one of its kind in the state, is patterned after teen courts that are used in several Wisconsin counties in which teenagers act as judges for other teens who break the law, said Outagamie County District Attorney Vince Biskupic. In this case, the offenders are between the ages of 17 and 25, and are judged by a panel of seniors.

Biskupic said the three sessions of community court held so far had saved several thousand dollars in costs of judges, prosecutors, public defenders and other court personnel. Instead of making two or three Circuit Court appearances, defendants appear before the community court only once. The court is staffed by a judicial assistant and an investigator from the district attorney's office or a sheriff's deputy, who acts as bailiff.

Defendants who participate in the program must sign a deferred prosecution agreement to avoid a criminal conviction on their records. The terms of the agreement are determined by a panel of three volunteer seniors, who review the police reports, question the defendant and listen to his or her side of the case.

Defendants must sign a contract that says that charges will be filed against them if they re-offend during the contract period, which can range from six to 18 months. Other penalties may include restitution, community service, counseling, no-contact rules and employment or education requirements.

Those in the program are charged with misdemeanor offenses such as disorderly conduct, retail theft and possession of marijuana. In addition to handing down "sentences," the members of the community court can - and do - offer advice to offenders.

At a recent hearing, Lloyd Kloehn, a retired postal worker, told a 17-year-old: "Next time you won't be this lucky. You'll be up in front of a man in a black robe instead of us old fogies."

One disorderly conduct defendant who was accused of directing vulgar language at police officers told the panel he felt that police harassed younger people.

He didn't get much sympathy from Richard Cline, a retired obstetrician, however.

"Next time, you may go to jail. This is a good deal for you. You have to straighten out your attitude, straighten out your life."

The panel ordered the young man to write letters to the arresting police officers, explaining why it was necessary to have laws and police, and what etiquette was proper when confronted by police.

The reaction of the defendants to the new court was favorable.

"I'm really glad they let me have a second chance because there are a lot of people who won't," said one 17-year-old.

Another was grateful that he didn't have to face the cost of a full court proceeding. "I would have had to hire a lawyer," he said.

Biskupic, who spearheaded community court, said the program "saves money and time, and gives an opportunity for senior citizens to play an active role in the justice system."

Appeared in the Milwaukee Journal Sentinel on Sept. 29, 2001.

# Community court saves time — and money

By Linda Werner  
Staff Reporter

Time is money in the Outagamie County District Attorney's office. A community court diversion program initiated this spring is designed to save both.

"We look for alternatives on certain types of cases rather than taking them into circuit court," said Vince Biskupic, Outagamie County district attorney. "We're 60 percent understaffed for prosecutors."

Biskupic sees the community court as a way to end or curtail the behavior of first-time or minor offenders without exhausting too many court resources.

Community court takes the concept of deferred prosecution one step further. Instead of making two to three circuit court appearances before an agreement is reached (on the conditions a defendant must meet to have the charges removed from his or her record), the individual only makes one appearance before the community court. A judge, clerk of courts or public defender is not needed. It also essentially eliminates the district attorney's office from the equation

"Part of the goal is to remove ourselves from the process," Biskupic said. An administrative assistant in the district attorney's office handles the paperwork and the mechanics of setting up court times.

"It's a way to do deferred prosecution with eliminating some of the cost," Biskupic said.

In the community court, a three-member volunteer board determines what requirements a defendant must meet over what length of the time. Board members may assign a time period of six to 18 months for completion of any requirements they might impose. Just as in circuit court, the options may include community service, restitution, counseling, no contact rules, employment, education or other stipulations.

"The only minimum requirement is that they cannot have any further criminal conduct," Biskupic said.

Ron Sanderfoot, one of the community court volunteers, said he thinks directives set by the community court are similar to what might be handed down in circuit court.

"We do have some references and we have a deputy sheriff in there who can guide us along," he said. Retired sheriff's deputy Grant Krueger acts as

the bailiff during the hearings. A court reporter is also present so all actions are recorded.

"It's a good way for first offenders" to have their cases handled, Sanderfoot said. He was glad to be asked to participate in the project. Sanderfoot, now retired, has worked with young people in volunteer programs most of his life. The primary age group community court serves is 17 to 21.

"I've always been interested in younger people," he said. Once an agreement is made, the contract is signed by the community court board members and the defendant. The defendant then submits bi-monthly reports to the DA's office reporting on compliance and progress meeting the terms of the agreement.

"Once the contract is signed, we monitor it," Biskupic said. So far, about two dozen cases have been heard in two sessions of community court — one in May and one in July. The next court date is scheduled for Aug. 30.

Sanderfoot, who participated in both of the initial sessions, said it was not difficult for the three-member panel to come to a consensus on each case. Panelists are allowed to ask the defendant questions to clarify the situation for the board. Another court volunteer, Ronald Zeihen of Appleton said that's important.

"It gives you a feel for what their attitude is," he said. "The object of this whole thing is to give them a chance to go in a different direction and stay out of the court system."

The volunteers sitting on the board are retired individuals who bring a lot of life experience to the situation, according to Biskupic.

"There's a dialogue back and forth," he said "I don't go up there and try in any way to steer the board members."



Vince Biskupic

The community court process starts when charges are sent to the district attorney's office. The defendant is then sent a letter, information about the community court process and offered a time to appear. If the defendant declines, the case automatically goes to circuit court and the usual judicial process kicks in. If the defendant chooses to attend community court, the public defender's office may not have a representative available because the case won't be heard in circuit court but defendants may hire an attorney if they wish and are able to do so.

Biskupic thinks his office can do up to about 100 cases per year in community court, given current staffing levels. This first year is a pilot period, with Biskupic's office tracking the successes and failures of the program, as well as the cost.

Last year the Outagamie County District Attorney's Office processed 8,042 cases.

## Committee Meeting Attendance Sheet

### Assembly Committee on Corrections and the Courts

Date 2-11-2004 Meeting Type Executive Session  
 Location 400 Northeast, State Capitol

Committee Members:	Present	Absent
Rep. Garey Bies, chair	✓	
Rep. Sheryl Albers, vice-chair	✓	
Rep. Greg Underheim	✓	
Rep. Carol Owens	✓	
Rep. Frank Lasee		
Rep. Scott Suder		
Rep. Mark Pocan		
Rep. Pedro Colon	✓	
Rep. Tony Staskunas		
Rep. Sheldon Wasserman	✓	
TOTALS.....		

Andrew Nowlan, Committee Clerk



# Assembly Committee on Corrections and the Courts

name *↳*

DATE \_\_\_\_\_

Moved by Und

Seconded by Stask

AB \_\_\_\_\_

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

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A \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

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Be recommended for:

Passage

Introduction

Adoption

Rejection

Indefinite Postponement

Tabling

Concurrence

Nonconcurrence

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Garey Bies, chair	1			
2.	Rep. Sheryl Albers, vice-chair	2			
3.	Rep. Greg Underheim	3			
4.	Rep. Carol Owens	4			
5.	Rep. Frank Lasee	5			
6.	Rep. Scott Suder	6			
7.	Rep. Mark Pocar				
8.	Rep. Pedro Colon	7			
9.	Rep. Tony Staskunas				
10.	Rep. Sheldon Wasserman	8			
Totals					

MOTION CARRIED

MOTION FAILED

# Assembly Committee on Corrections and the Courts

DATE \_\_\_\_\_  
 Moved by Alb Seconded by Colon  
 AB \_\_\_\_\_ SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_  
 A \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_  
 A/S Amdt a2114 \_\_\_\_\_  
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Adopt sub  
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Be recommended for:

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| <input type="checkbox"/> Passage             | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction        | <input type="checkbox"/> Tabling                 |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence             |
| <input type="checkbox"/> Rejection           | <input type="checkbox"/> Nonconcurrence          |

#	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Garey Bies, chair	1			
2.	Rep. Sheryl Albers, vice-chair	2			
3.	Rep. Greg Underheim	3			
4.	Rep. Carol Owens	4			
5.	Rep. Frank Lasee	5			
6.	Rep. Scott Suder	6			
7.	Rep. Mark Pocan				
8.	Rep. Pedro Colon	7			
9.	Rep. Tony Staskunas				
10.	Rep. Sheldon Wasserman	8			
Totals					

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MOTION CARRIED                       MOTION FAILED

# Assembly Committee on Corrections and the Courts

DATE \_\_\_\_\_  
 Moved by Alb Seconded by Wass  
 AB 137 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_  
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- Be recommended for:
- Passage
  - Introduction
  - Adoption
  - Rejection
  - Indefinite Postponement
  - Tabling
  - Concurrence
  - Nonconcurrence

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Garey Bies, chair	1			
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8.	Rep. Pedro Colon	7			
9.	Rep. Tony Staskunas				
10.	Rep. Sheldon Wasserman	8			
Totals					

MOTION CARRIED       MOTION FAILED

Limits age from 18-24

FE - Minimal

Targets young adults who have made a mistake, not for habitual offenders.

Deferred prosecution is possible now, this just gives the judges another option. Deferred ~~pro~~ pros in not now explicitly an option.

Crim proc can be expedit to part in a senior court program

↳ Permits chief judge to approve senior court

Answer

Satisfies order, record may ex purge record.

Crim Proc susp to part  
in senior court pres.

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Δ sen crt- to com crt  
for youthful offenders  
+ com crt

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Expungement option for court  
if defendant satisfies order

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Amend