

Nowlan, Andrew

From: Lindstedt, Daniel
Sent: Tuesday, August 05, 2003 9:54 AM
To: Nowlan, Andrew
Subject: SB 131

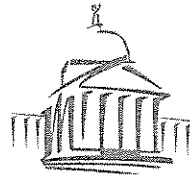
Andrew:

I wanted to get back to you re: SB 131 and the Senator's availability for a hearing on the bill on August 13th.

The Senator has a full day scheduled in the District that day and Joe wanted to know if it would be possible to postpone hearing this bill. If that is not possible, we'll work something out, but Joe would prefer to before the committee in person to testify on the bill. Hope that helps and let me know your thoughts.

Thanks!

Daniel K. Lindstedt
Office of State Senator Joseph K. Leibham
(608) 266-2056



Joe Leibham

STATE SENATOR

TESTIMONY OF STATE SENATOR JOE LEIBHAM

(Author of Senate Bill 131)

- Wednesday, September 10, 2003 -

Good morning Chairman Bies and Committee members.

As the author of Senate Bill 131 (SB 131), I would like to thank you for your willingness to hear testimony on this bill which seeks to aid the men and women whose duty it is to protect and to serve, providing safety within our communities.

Under current law, a person may not be tried, convicted or sentenced for the commission of a crime if the person lacks substantial mental capacity to understand the proceedings or assist in his or her own defense. If a court has reason to doubt a defendant's competency, the court appoints an expert to examine and file a report on the defendant's mental condition. Upon receiving a copy of the report, the court then distributes copies to the district attorney prosecuting the case and the criminal defendant and/or his or her legal counsel. The report, under current law, may not be otherwise disclosed before a hearing to determine the competency of the defendant.

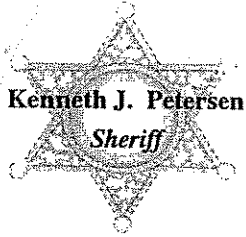
Last year, the Sheboygan County Sheriff contacted me with concerns regarding current law and the inability of sheriffs and jailers to access the results of the competency exam of those whom they are charged to watch over while in their custody. I was asked to help draft legislation that would allow for access to competency examination reports, upon request, be made available to these men and women in uniform before a hearing. SB 131 is the culmination of that work.

Specifically, the bill before you today would direct courts to provide a copy of a competency examination report to the sheriff or jailer charged with the care and control of the jail in which a defendant is being held pending or during a trial or sentencing proceeding. Access to the competency examination report would ONLY be available upon request by the sheriff or jailers office. Such information would benefit sheriffs, jailers *and* defendants. Early access to these reports will help sheriffs and jailers to gain a more complete understanding of the criminally charged and better determine the proper care that may be required for individuals based on the results of a competency exam. With this knowledge, sheriffs and jailers would be better equipped to provide protection to both the staff and the criminally charged within a jailing facility.

Simply put, access to the results of competency exams would allow for sheriffs and jailers to more readily assess the needs of criminal defendants within their jails. In knowing the results of these exams, law enforcement officials will be better able to determine and understand the mental state of criminal defendants and whether or not they pose any harm to those around them and most importantly, to themselves.

Last session as a State Representative, I authored an identical draft of this legislation, which passed unanimously out of the Assembly. In addition to this testimony, I am pleased to present letters of support from the Sheboygan County Sheriff's Department and the Manitowoc County Sheriff's Department, recognizing the potential benefits of this legislation to their departments, were this bill be passed into law. In closing, I would again like to thank you for scheduling Senate Bill 131 for a public hearing and for your time, attention and consideration to this important, commonsense piece of legislation.

Thank you.



MANITOWOC COUNTY SHERIFF'S DEPARTMENT

1025 South 9th Street
Manitowoc, Wisconsin 54220
Phone (920) 683-4200 ✪ Fax (920) 683-4946



MAY 13 2003

May 12, 2003

Senator Joseph K. Leibham
P O Box 7882
Madison, WI 53707-7882

Dear Senator Leibham,

I have reviewed Senate Bill 131. I do thank you for providing the information and requesting input from those affected.

In this day and age the Sheriff and his staff are expected to know what is going on with each and every inmate in our care and control. We are also required to meet these needs for the well being of each inmate. This bill allows access to known information. Result of this benefits not only the sheriff and staff, but the inmate and possibly the citizens we serve.

We are living in times when it appears nothing is simple or inexpensive. Here we have an action that meets those needs. I see no negatives to this legislation.

Sincerely,

Kenneth J. Petersen, Sheriff
Manitowoc County

SHEBOYGAN COUNTY SHERIFF'S DEPARTMENT
CORRECTIONAL SERVICES

Michael W. Helmke, Sheriff
Gary W. TenHaken, Inspector
John Scholke, Jail Administrator

Phone: (920) 459-1301

FAX: (920) 459-1307

MAY 19 2003

May 15, 2003

Senator Joseph Leibham
P.O. Box 7882
Madison, WI 53707-7882

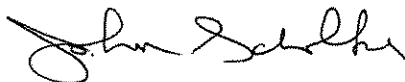
Dear Senator Leibham,

Sheriff Helmke shared with me the letter you sent him regarding Senate Bill 131. He has asked me to provide you some comments and the Sheriff's Department position on this Bill.

As Jail Administrator for Sheboygan County, I see Senate Bill 131 as a potentially useful tool for my corrections and medical staffs. We often have inmates brought back from the two State mental health facilities from competency exams with no medical information. I fully understand the confidential nature of this information, but it severely handicaps my staff from a medical and security standpoint. The Jail nurses need the information to monitor and plan any continued care of the inmate while they are awaiting trial. This time period can often be several months. This information also serves as a guide for my corrections staff to properly house the inmate in a safe environment for him or her, other inmates and the staff.

We fully support Senate Bill 131 and applaud you in your personal efforts to make this a reality. If you are in need of any additional information on this issue, we welcome the opportunity to assist you.

Sincerely,



John Scholke
Captain



Milwaukee Deputy Sheriffs' Association

Safety Building, 821 West State Street, Milwaukee, Wisconsin 53233 • (414) 276-5222 • Fax (414) 276-5295

To: Members of the Senate Judiciary, Corrections and Privacy Committee
From: Jerry Rieder – Milwaukee Deputy Sheriff's Association

The Milwaukee Deputy Sheriff's Association supports the passage of SB 131. We believe that having access to the competency examination reports of defendants in our custody is absolutely necessary for their safety and for ours. Without access to these reports, it is impossible for us to make informed decisions regarding a defendant's potential to harm themselves or be violent to others. In order to adequately protect both the defendants and our officers, we simply must be made aware of their mental state. Suicide is the leading cause of death amongst individuals in custody. The key to interrupting this troubling statistic is to equip those who supervise prisoners with the knowledge to make informed decisions regarding safety.

While we realize that such information is sensitive and therefore requires controlled access, we contend that such documents generally become part of court, and therefore public, record. Furthermore officers of the law are already privy to many types of delicate information about individuals and are trusted to keep this confidence.

The need for this legislation is clear. Officers simply cannot be expected to protect those in their custody without being made aware of their violent or potentially disturbing behaviors. All such information can be obtained by the simple expedient of granting officers with custody access to the defendants' competency examinations; documents to which many other officers of the court have access. Such a move is not only imperative for the safety of law enforcement officials, but also for the defendants themselves. If you have any questions about this issue please contact our lobbyist, Cathleen Huebner at Broydrick & Associates. (608) 255-0566.

Assembly Republican Majority Bill Summary

SB 131: Competency Reports of Criminal Defendants

Relating to: access for sheriffs and jailers to reports regarding the competency of criminal defendants.

Introduced by Senators Leibham, Cowles, Kanavas and Roessler; cosponsored by Representatives J. Fitzgerald, LeMahieu, Suder, Hines, Albers, Ladwig, Owens, Townsend, McCormick, Olsen, Seratti, Krawczyk, Bies, Gunderson, Ott, Staskunas, Stone, Van Roy, Friske, Hundertmark, Huber and Grothman.

Date: January 20, 2004

BACKGROUND

Under current law, a person may not be tried, convicted, or sentenced for the commission of a crime if the person lacks substantial mental capacity to understand the proceedings or assist in his or her own defense. If a court has reason to doubt a defendant's competency, the court appoints an expert to examine and report on the defendant's condition. The expert's report is distributed to the court, the district attorney, and the defendant or his or her attorney. The report may not be otherwise disclosed prior to a hearing on the issue of the defendant's competency.

SUMMARY OF SB 131

Senate Bill 131 allows a sheriff or jailer charged with care and control of a jail in which a defendant is being held pending or during a trial or sentencing proceeding, to request a copy of the competency examination report regarding the defendant. Upon such a request, the report shall be distributed to the sheriff or jailer. The bill also allows the sheriff or jailer to provide a copy of the report to certain other persons involved in the provision of health care to jail inmates.

FISCAL EFFECT

Fiscal Estimates prepared by the Department of Administration and Department of Corrections indicate that there would be no state or local fiscal impact as a result of SB 131.

PROS

1. Would allow those responsible for custody of defendants to be fully informed as to the mental capabilities of those under their care thereby allowing the custodians to provide for any special needs the defendants may require.
2. Increase safety for sheriffs and jailers.
3. Increase safety for defendants in custody of sheriffs and jailers.

CONS

1. Allows access to medical records by those previously without such access.

SUPPORTERS

Sen. Joe Leibham, author; Rep. Jeff Fitzgerald, lead co-sponsor; Manitowoc County Sheriff's Department; Sheboygan County Sheriff's Department and Milwaukee Deputy Sheriff's Association.

OPPOSITION

No one registered or testified in opposition to Senate Bill 131.

HISTORY

Senate Bill 131 was introduced on May 5, 2003, and referred to the Senate Committee on Judiciary, Corrections and Privacy. A public hearing was held on June 10, 2003. On June 10, 2003, the Committee voted 5-0 to recommend passage of Senate Bill 131. On June 24, 2003, the Senate passed Senate Bill 131 and ordered immediately messaged. On June 27, 2003, Senate Bill 131 was referred to the Assembly Committee on Corrections and the Courts. A public hearing was held on September 10, 2003. On October 8, 2003, the Committee voted 10-0 to recommend passage of Senate Bill 131.

CONTACT: Andrew Nowlan, Office of Rep. Garey Bies

Assembly Committee on Corrections and the Courts

DATE _____

Moved by Albers Seconded by Glas

AB _____ SB 131 Clearinghouse Rule _____

AJR _____ SJR _____

A _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

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				
4.	Rep. Carol Owens	3			
5.	Rep. Frank Lasee	4			
6.	Rep. Scott Suder	5			
7.	Rep. Mark Honadel				
8.	Rep. Mark Pocan	6			
9.	Rep. Pedro Colon	7			
10.	Rep. Tony Staskunas	8			
11.	Rep. Sheldon Wasserman				
	Totals				

MOTION CARRIED

MOTION FAILED

SB 131

CL: Reports can't be disclosed
prior to court case.

131: Access to reports upon request