



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 137

**Assembly Substitute
Amendment 1**

Memo published: February 16, 2004

Contact: Philip G. Cardis, Staff Attorney (267-0683)

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 volunteer in a probation program.

Assembly Substitute Amendment 1 permits the chief judge of a judicial administrative district to approve of a community court for youthful offenders 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 community 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 community 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.

Also, if a court orders that a defendant be placed in a community court program, the court *may* also order that the record be expunged if the defendant satisfies the conditions of the order and any applicable suspended prosecution agreement. So upon satisfaction of the conditions of the order, the court would then expunge the court record if the court authorized expungement.

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

Legislative History

On February 11, 2004, the Assembly Committee on Corrections and the Courts recommended Assembly Substitute Amendment 1 for adoption by a vote of Ayes, 7; Noes, 0. The committee then recommended passage of the bill, as amended, by a vote of Ayes, 9; Noes, 0.

PGC:rv