



# John Nygren

WISCONSIN STATE REPRESENTATIVE ★ 89<sup>TH</sup> ASSEMBLY DISTRICT

Senate Bill 269  
State Rep. John Nygren  
October 22, 2015

Thank you Chair Wanggaard and members of the Committee on Judiciary and Public Safety for holding a public hearing on Senate Bill 269.

Last year, my colleagues in the legislature and I passed a package of seven bills aimed at combating our state's heroin epidemic. We called this package the Heroin, Opiate Prevention and Education – or HOPE – Agenda. With unanimous bipartisan support and Governor Walker's signature, we successfully laid a foundation to fight heroin and opiate addiction in Wisconsin.

This session, our goal is to address what many people believe to be the root of our state's heroin problem: prescription drug abuse and addiction. Studies show that, in many cases, heroin addiction begins with an addiction to prescription painkillers. Whether these medications are obtained legally or not, we need to do our best to curtail the illegal use of these dangerous substances. It is for this reason that I am offering additional HOPE Agenda bills that are aimed at fighting prescription drug abuse in Wisconsin.

These proposals focus on our state's prescription drug monitoring program (PDMP), methadone clinics, and pain clinics. The goal of these bills is to stop the abuse of prescription medications before it begins; these proposals will help doctors and pharmacists stay on top of their prescribing and dispensing practices, identify patients who attempt to "doctor shop," and ultimately reduce the number of Wisconsinites who become addicted to prescription opiates.

It's important to note that these proposals won't prevent the legitimate use of prescription medications. Instead, these proposals help prescribers and dispensers collect data in order to better identify instances of scheduled drug abuse. I'm proud that we're taking steps in the right direction to fight Wisconsin's heroin and opiate epidemic, and I look forward to continuing to work with my colleagues, the medical community, law enforcement, and advocacy groups on this effort.

I appreciate the opportunity to testify before your committee today on this important piece of legislation and welcome any questions you may have at this time.



Date: October 22, 2015

To: Senate Committee on Judiciary and Public Safety

From: Senator Sheila Harsdorf

RE: Senate Bill 269 – Duty of Law Enforcement Officers Reporting to PDMP

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Dear Chair Wanggaard and Committee Members:

Thank you for holding a public hearing on Senate Bill 269 (SB 269) which proposes to require law enforcement officials to report to the Prescription Drug Monitoring Program (PDMP) when prescription drugs are found at the scene where there is a controlled substance violation or overdose.

This legislation is a continuation of the HOPE package that seeks to address the heroin epidemic plaguing Wisconsin. SB 269 proposes to improve communication between law enforcement, health care providers, and the PDMP when a prescription drug medication is found at a crime scene or drug overdose. This legislation also gives law enforcement the ability to work with the Department of Safety and Professional Services (DSPS) to obtain information from the PDMP during an ongoing investigation.

In speaking with law enforcement, public health officials, and medical professionals, one of key areas they reference in combatting addiction is the role of prescription drugs. Easily accessible prescription drugs can be dangerous in their own right, but they also are frequently a gateway for young people into illegal drugs. Finding ways to keep highly addictive prescription drugs out of the hands of our youth and those that are susceptible to addiction is a priority of those working to fight drug abuse. Connecting the health care providers responsible for prescribing and dispensing prescription drugs with law enforcement will aid in identifying those that may be seeking out and abusing prescription drugs with the goal of getting those individuals the help they need and preventing unnecessary loss of life.

This is common sense legislation that will provide law enforcement and health care providers with the tools they need in combating the illegal use of prescription drugs. Thank you again for your consideration of this important legislation. I urge your support of Senate Bill 269.



# Wisconsin State Public Defender

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October 22, 2015

Senator Van Wanggaard  
Chairman, Senate Committee on Judiciary and Public Safety  
P.O. Box 7882  
Madison, WI 53707

Dear Senator Wanggaard,

The State Public Defender (SPD) has philosophical concerns with Senate Bill 248. In the 2013 session, the SPD had significant concerns with the legislation that became 2013 Wisconsin Act 317. These concerns resulted in Assembly Amendment 8 to Assembly Bill 556, which put in place a number of limitations to recognize Fourth and Eighth Amendment protections in the significantly expanded ability to physically strip search detainees. One of those provisions was a twelve hour delay post-detention and pre-general population to allow for the individuals who are brought to a holding facility but released relatively quickly to avoid the invasive strip search.

We respectfully request that the committee consider the ramifications of removing the twelve hour delay without data to show that it is necessary. For Act 317, all available evidence suggested that there was not a significant amount of contraband being taken into jails after arrest of individuals. Without a reasonable individual suspicion to justify the search, one might expect that routine strip searching must be supported by quantitative evidence of efficacy.

In *Florence v. Board of Chosen Freeholders of County of Burlington*, 132 S.Ct. 1510, 1528 (2012), the Court notes that a pilot study conducted 23,000 strip searches over a four year period. This resulted in five instances of contraband being found. In four of the five cases, reasonable suspicion to conduct a search could have been obtained, leaving one instance of 23,000 strip searches which found contraband.

In *Shain v. Ellison*, 271 F.3d 56, 60 (C.A.2 2001), the decision includes data of 75,000 body cavity searches over five years (which is more intrusive than authorized in Act 317) which resulted in sixteen cases of the discovery of contraband.

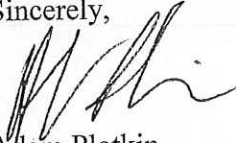
If the stated need for SB 248 is to reduce backlogs of individuals held outside of general population for twelve hours, we suggest that the committee seek answers to the following questions:

1. Since enactment of 2013 Act 317, how many individuals were detained in holding facilities throughout Wisconsin?
2. Of those detained, how many were subject to a strip search under the terms of Act 317?
3. Of the individuals strip searched, how many were found to be in possession of contraband and what was the type of contraband?
4. Since the enactment of Act 317, how many times has an overcrowding situation occurred as a result of needing to keep detainees out of general population prior to a strip search at twelve hours?

October 22, 2015

Answers to these questions may help the committee when balancing constitutional rights against the provisions in Senate Bill 248 as it impacts Act 317.

Sincerely,



Adam Plotkin  
Legislative Liaison  
Office of the State Public Defender



*Our Vision: No Life Limited by Pain*

October 27, 2015

Senate Committee on Judiciary and Public Safety  
Van H. Wanggaard, Chair  
Wisconsin Senate  
Madison, Wisconsin

RE: SB 269

Dear Senator Wanggaard and Members of the Committee:

I am writing on behalf of the American Academy of Pain Management to oppose SB 269 in its current form and to offer amendments, adoption of which would result in our support of the bill. The Academy recognizes the challenges involved in addressing two major public health crises, namely, inadequate treatment for pain, and prescription drug abuse, and to that end, has been heavily involved in both national and state-level efforts to address both health concerns. We are grateful to the State of Wisconsin for their efforts in addressing both public health crises.

Under this bill, if a law enforcement officer encounters a suspected controlled-substance violation involving certain prescription drugs or an opioid-related drug overdose or death, or a law enforcement officer receives a report of a stolen controlled-substance prescription, the officer must report certain identifying information about that suspected violation to his or her law enforcement agency, which the agency will then provide to the PMP. The PMP may then disclose information provided by the law enforcement agency to persons such as relevant practitioners and pharmacists.


We have two major concerns with this bill. First, the bill would direct law enforcement officers to report to the PMP *suspected* or *reported* violations involving prescription drugs—these alleged violations do not need to be substantiated in any way before being reported. In our view, this could amount to reporting hearsay to the PMP, where it would be stored for clinicians to see. **While we would not be opposed to law enforcement officers reporting *convictions* and other *proven* violations to the PMP, we cannot support this bill in its current form**, as it has the potential to cause unjust stigmatization and improperly limit access to pain care—all based on alleged violations. Second, we are unaware of any other PMP in the nation that collects this type of information, and we are unsure how Wisconsin would build this functionality into its system in a secure way, as doing so may be costly and/or technically challenging. **We respectfully advise that this bill be amended so that it calls for an investigation as to the feasibility and cost of implementing these provisions.**

We thank you for your attention to these important issues, and we urge you to amend SB 269 as outlined above in order to strengthen Wisconsin's prescription monitoring program and improve the

public welfare. I am happy to discuss this issue with you if necessary. Please feel free to contact me by email at [btwillman@aapainmanage.org](mailto:btwillman@aapainmanage.org), or by telephone at 209-288-2210.

About the Academy: The American Academy of Pain Management is the premier organization for all clinicians who care for people with pain. It is the largest pain management organization in the nation and the only one that embraces, as part of its mission statement, an integrative model of care, which: is patient-centered; considers the whole person; encourages healthful lifestyle changes as part of the first line of treatment to restore wellness; is evidence-based; brings together all appropriate therapeutic approaches to reduce pain and achieve optimal health and healing; and, encourages a team approach.

Sincerely yours,



Robert Twillman, Ph.D., FAPM  
Executive Director  
American Academy of Pain Management

Cc: Senator Sheila Harsdorf, Representative John Nygren