



WISCONSIN LEGISLATIVE COUNCIL
PROPOSED REPORT TO THE LEGISLATURE

SPECIAL COMMITTEE ON
JUSTICE REINVESTMENT
INITIATIVE OVERSIGHT

May 18, 2009

PRL 2009-12

Special Committee on Justice Reinvestment Initiative Oversight

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PART I

KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS

The Special Committee on Justice Reinvestment Initiative Oversight recommends the following bill drafts to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature.

WLC: 0425/3, Relating to Maximum Term of Extended Supervision

WLC: 0425/3 provides that a court may not order a term of extended supervision that exceeds 75% of the term of confinement in prison ordered for a person. This limitation does not apply to a person who has been convicted of a Class A, B, or C felony or a sex offense.

WLC: 0426/3, Relating to the Parole and Extended Supervision Revocation Process and Time Spent in Prison After Revocation

WLC: 0426/3 provides that, when a person's extended supervision or parole is revoked, the person must be ordered to be confined in prison for six months. The Department of Corrections (DOC) may extend the confinement time of a person placed in prison for six months by not more than 90 days for rule violations or failure to participate in programming or treatment.

WLC: 0427/3, Relating to Community Supervision Services

WLC: 0427/3 makes appropriations for community-based mental health services, a transitional employment program, and community services to reduce recidivism for persons on supervision. In addition, the draft sets a goal of reducing recidivism by 25% by 2011. The draft requires DOC to create community services to reduce recidivism, to track the effectiveness of these services, and to report annually to the Governor, the Legislature, and the Director of State Courts on the services provided and the progress towards reducing recidivism.

WLC: 0428/3, Relating to Risk Reduction Sentence

WLC: 0428/3 permits a court to order a risk reduction sentence for a person who agrees to participate in an assessment of the person's criminogenic needs and risk of re-offending and any programming or treatment required by DOC to address the person's risk and needs. If the person successfully completes the risk reduction sentence, DOC must release the person after he or she has served 75% of the term of confinement in prison ordered under the sentence.

Additional Recommendations

The committee recommends that legislation be enacted that does the following:

- Creates a mechanism for tracking restitution orders and enforcing the payment of restitution by persons on correctional supervision or against whom a civil judgment for restitution has been entered.
- Provides notification to victims when an offender's supervision is subject to revocation.
- Provides information to victims relating to programming DOC provides to offenders in institutions and in the community.

PART II

COMMITTEE ACTIVITY

Assignment

The Joint Legislative Council established the Special Committee on Justice Reinvestment Initiative Oversight and appointed the chairperson by an April 9, 2008 mail ballot. The committee was directed to serve as the entity to which the Council of State Governments (CSG) Justice Center reports. The study committee process creates a unique forum in which legislators receive data from the Justice Center along with public members who work directly in different aspects of the corrections and criminal justice systems. The CSG Justice Center will provide technical assistance relating to corrections costs. Specifically, the technical assistance will include: (1) mapping of specific neighborhoods where large numbers of offenders are released from prison to identify how to improve coordination of services, correctional supervision, and law enforcement; (2) analyzing the prison population to determine what is driving its growth and to identify which categories of offenders are at high risk of re-offending; (3) developing policy options, based upon the data collected, to increase public safety and decrease corrections spending; and (4) projecting the fiscal impact of any policy options identified.

Membership of the Special Committee, appointed by a December 3, 2008 mail ballot, consisted of two Senators, four Representatives, and 10 Public Members. Modifications were made by a January 8, 2009 mail ballot appointing Representative Robert Turner as Vice-Chair and Senator Luther Olsen as a member to the committee. A list of committee members is included as **Appendix 3** to this report.

Summary of Meetings

The Special Committee held six meetings on the following dates:

January 12, 2009
March 11, 2009
April 7, 2009
April 22, 2009
May 6, 2009
May 15, 2009

At the January 12, 2009 meeting, the Special Committee heard invited testimony from the Council on State Governments (CSG) Justice Center and DOC. **Marshall Clement**, Project Director, Justice Reinvestment Initiative, CSG Justice Center, provided a background of justice reinvestment projects. He described some of the work the CSG Justice Center has done in nine other states, including Michigan, Kansas, and Texas. He explained that Governor James Doyle, Chief Justice Shirley Abrahamson, Senate President Fred Risser, and Assembly Speaker Michael Huebsch requested technical assistance to help Wisconsin increase public safety, manage the increase in the state's prison population, and reinvest in strategies to reduce recidivism.

Tony Streveler, Executive Policy Initiatives Advisor, DOC, reported the department's prison population projections for 2009 to 2019. He reported a projected 16% increase in the prison population over the next 10 years. He also described several efforts addressing mental health issues within the corrections population, as well as treatment and diversion programs and re-entry programs.

Dr. Tony Fabelo, Director of Research, Justice Reinvestment Initiative, CSG Justice Center, presented preliminary analyses of Wisconsin's crime and prison population. He described the increase in the number of persons whose supervision is revoked and who are subsequently placed in prison.

At the March 11, 2009 meeting, the Special Committee heard invited testimony from the CSG Justice Center. **Marshall Clement**, Project Director, Justice Reinvestment Initiative, CSG Justice Center, listed the six areas of analyses CSG conducted: (1) prison population projections; (2) law enforcement and public safety; (3) community corrections system; (4) substance abuse and mental health; (5) reentry and employment strategies; and (6) mapping analysis.

Mr. Clement also described the justice reinvestment framework: strengthening and improving the effectiveness of community supervision and services; reducing the number of revocations and the cost to taxpayers; and reinvesting in strategies to increase public safety by reducing recidivism and rising rates of violent crime.

Dr. Tony Fabelo, Director of Research, Justice Reinvestment Initiative, CSG Justice Center, presented the findings on Wisconsin's community corrections system. He reported that revocations without a new sentence accounted for 50% on prison admissions in 2000 and 61% of admissions in 2007. Dr. Fabelo recommended best practices for effective supervision, including effective assessment of risk and needs; supervision strategies; incentives and sanctions; and reduction in the number returned to prison.

At the April 7, 2009 meeting, the Special Committee heard invited testimony from the CSG Justice Center. **Dr. Tony Fabelo**, Director of Research, Justice Reinvestment Initiative, CSG Justice Center, reported that DOC will have a shortfall of 6,935 beds by 2019 and that CSG's policies will save Wisconsin \$1.4 billion in construction and \$1 billion in operating costs over the next 10 years.

Marshall Clement, Project Director, Justice Reinvestment Initiative, CSG Justice Center, presented an analysis of Wisconsin's rates in crime, arrests, and convictions.

Dr. Fred Osher, Director of Health Systems and Services Policy, Justice Reinvestment Initiative, CSG Justice Center, presented information on the overrepresentation of persons with substance use disorders and serious mental disorders among Wisconsin's incarcerated population. He presented policy recommendations regarding screening and assessments, the use of Medicaid for severely mentally ill offenders on supervision, and targeting financial resources to medium to high risk and high need individuals.

At the April 22, 2009 meeting, the Special Committee heard invited testimony from the CSG Justice Center. **Dr. Tony Fabelo**, Director of Research, Justice Reinvestment Initiative, CSG Justice Center, presented the Justice Center's draft of its final report entitled *Justice Reinvestment in Wisconsin: Analyses & Policy Options to Reduce Spending on Corrections and Increase Public Safety*.

Marshall Clement, Project Director, Justice Reinvestment Initiative, CSG Justice Center, reviewed four policy options proposed by the CSG Justice Center justice reinvestment team. The four policy options included: (1) focusing supervision resources; (2) reallocating revocation expenditures to community-based strategies; (3) creating a sentencing option to reduce risk prior to release; and (4) setting a recidivism reduction goal. Dr. Fabelo said that if Wisconsin implemented the four policy options, the state could cumulatively avert \$2.5 billion in construction and operating costs over the next 10 years, with a net savings of \$2.3 billion.

After the testimony, the committee discussed the policy options. There was consensus to prepare initial drafts of the four policy options.

At the May 6, 2009 meeting, the Special Committee heard invited testimony from **Marshall Clement**, Project Director, Justice Reinvestment Initiative, CSG Justice Center. Mr. Clement presented the final version of the report entitled *Justice Reinvestment in Wisconsin: Analyses and Policy Options to Reduce Spending on Corrections and Increase Public Safety*.

After the testimony, the committee discussed four initial bill drafts which incorporated the policy options recommended by the CSG Justice Center. There was consensus to continue to pursue:

(1) allocating resources for community supervision services related to mental health, unemployment, and community alternatives; (2) changing the maximum term of extended supervision for felonies other than a Class B or C felony or a sex offense; (3) modifying the parole and extended supervision revocation process and time spent in prison after revocation; and (4) creating a risk reduction sentence.

At the May 15, 2009 meeting, the Special Committee discussed and voted on the four bill drafts with modifications made in response to the previous meeting.

Public member **Richard Dufour** reported on a meeting with victims' rights advocacy groups. He recommended amending current restitution procedures so that collection would be comparable with child support collection instead of using extended supervision resources to help victims obtain restitution. According to Mr. Dufour, the victims' groups also stated they would like more information when an offender's supervision is revoked and programming recommended and provided by DOC. Because the committee had been focused on reinvestment and these ideas had not been raised at earlier committee meetings, Chair Taylor requested that legislation be pursued separately from the committee's report. The committee also requested that the committee report include a statement reflecting that it supports the revisions to current law suggested by the victims' groups.

PART III

RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

This part of the report provides background information on, and a description of, the drafts as recommended by the Special Committee on Justice Reinvestment Initiative Oversight.

WLC: 0425/3

Background

Under current law, a court must impose a bifurcated sentence for a person sentenced to imprisonment for a felony, other than a Class A felony, committed after December 31, 1999, or a misdemeanor committed on or after February 1, 2003. A bifurcated sentence includes a period of confinement and a period of extended supervision.

The statutes define the maximum term of imprisonment for each sentence. The term of imprisonment for a bifurcated sentence is broken into two phases: confinement and extended supervision.

The statutes also define the maximum term a court may sentence a person to spend in confinement as well as both the minimum and maximum term of extended supervision for classified felonies. The minimum term of extended supervision may not be less than 25% of the time one is sentenced to confinement. The maximum terms of confinement and extended supervision for felonies other than a Class A felony are as follows:

- Class B felony: 40 years of confinement; 20 years of extended supervision.
- Class C felony: 25 years of confinement; 15 years of extended supervision.
- Class D felony: 15 years of confinement; 10 years of extended supervision.
- Class E felony: 10 years of confinement; 5 years of extended supervision.
- Class F felony: 7.5 years of confinement; 5 years of extended supervision.
- Class G felony: 5 years of confinement; 5 years of extended supervision.
- Class H felony: 3 years of confinement; 3 years of extended supervision.
- Class I felony: 1.5 years of confinement; 2 years of extended supervision.

The Justice Center recommended that Wisconsin amend its statutes to provide that a court may not order a term of extended supervision that exceeds 75% of the term of confinement in prison ordered. The Justice Center proposed this option as a way of targeting resources and ensuring that community supervision resources are focused on the initial months of supervision when the risk of recidivism is the highest and the potential to increase public safety is the greatest.

The Justice Center recommended excluding persons convicted of a Class A, B, or C felony or a sex offense from this requirement. Committee members raised concerns about limiting the term of

extended supervision in cases where a victim is owed restitution that cannot be paid during a limited term of extended supervision or when there is a no-contact order (e.g., in a domestic violence case) is enforced under the extended supervision.

Description

WLC: 0425/3 provides that the maximum term of extended supervision may not exceed 75% of the term of confinement for all crimes other than Class B felonies, Class C felonies, and the crimes defined as “sex offenses” under s. 301.45 (1d) (b), Stats. For Class B and C felonies and sex offenses, the maximum terms of extended supervision set forth in current law apply.

This provision will first apply to persons who commit an offense on the effective date of the legislation.

WLC: 0426/3

Background

Under current law, a person who is sentenced to prison may be released to parole or extended supervision, depending on the date the offense was committed. Extended supervision applies to a bifurcated sentence for a felony committed on or after December 31, 1999, or a misdemeanor committed on or after February 1, 2003. For all other offenses, a person under the department's community supervision following a prison term is on parole.

To revoke a person's extended supervision, the statutes require two hearings. The first hearing determines whether a person's extended supervision is revoked. The second hearing determines the length of the term of reconfinement.

Unless the first hearing is waived, the determination of whether to revoke extended supervision is made by a hearing examiner in the Department of Administration, Division of Hearings and Appeals. If the hearing is waived, DOC makes the revocation determination. If the hearing examiner or DOC decides to revoke a person's extended supervision status, the hearing examiner or DOC must make a recommendation to the circuit court as to the length of time the person should spend in confinement in prison. The circuit court reviews the hearing examiner's recommendations and determines the appropriate period of time that the person should spend in confinement. The initial term of confinement and additional terms of confinement following revocations may not exceed the total length of the bifurcated sentence.

To revoke a person's parole status, the statutes require one hearing before a hearing examiner. The time period a person spends in prison following parole revocation is determined by the hearing examiner.

Current law also provides a framework for how time spent in prison after revocation may be extended for both extended supervision and parole. For both extended supervision and parole, the superintendent or warden may extend the time spent in prison by the following number of days for each offense, not to exceed the total length of the sentence (for parole) or bifurcated sentence (for extended supervision): (1) 10 days for the first offense; (2) 20 days for the second offense; and (3) 40 days for the third and subsequent offenses.

Also, under current law, a person whose parole was revoked may be released from prison earlier than the release date determined by the hearing examiner through a special action release program. The DOC may use a special action release program to place someone on parole if there is prison overcrowding. Current law also allows a person who has served 25% of the sentence or six months, whichever is greater, to apply to the parole commission to be released earlier than the release date determined at the revocation hearing.

The Justice Center recommended that Wisconsin amend its statutes so that a person whose extended supervision or parole is revoked would serve a six-month period of reconfinement. The Justice Center recommended allowing DOC to hold an offender for up to an additional 90 days, in addition to the six months, for rule violations and failure to participate in programming. The Justice Center suggested this alternative as a means of targeting resources because revocation expenditures will be reduced and may be reallocated to community-based strategies. In addition, the Justice Center notes that a set reconfinement period eliminates the need for reconfinement hearings and, therefore, could reduce jail, prosecutor, public defender, and court time currently expended on the reconfinement hearing process.

Description

WLC: 0426/2 requires the reviewing authority to order an offender whose parole or extended supervision is revoked to be confined in prison for six months or the total length of the remaining sentence (for parole) or bifurcated sentence (for extended supervision), whichever is less. The reviewing authority is the hearing examiner in the Department of Administration, Division of Hearings and Appeals or DOC, if the hearing is waived.

This draft also gives DOC the authority to extend the period of time a person spends in confinement after revocation up to 90 days for any of the following violations:

1. Violating any regulation of the prison.
2. Refusing or neglecting to perform required or assigned duties.
3. Refusing or neglecting to participate in programming or treatment as required by DOC.

The draft removes authority from the parole commission to release a person from prison earlier than the time period determined by the hearing examiner. However, it retains the ability for DOC to release a person from prison through a special action release program if there is prison overcrowding.

WLC: 0427/3

Background

The Justice Center recommended that Wisconsin reinvest corrections spending in community-based mental health care for high-risk offenders on extended supervision or parole, targeted efforts to reduce unemployment among high-risk offenders on extended supervision or parole, and community-based services to reduce recidivism for persons on probation, extended supervision, or parole.

The Justice Center also recommended that Wisconsin set a goal to reduce recidivism by 25% from the 2008 levels by 2011. According to the Justice Center, this goal will help Wisconsin improve assessment processes, allocate supervision resources according to risks and needs, connect offenders with the right services to reduce violations, and tailor responses to violations to improve compliance.

Description

WLC: 0427/3 creates the following biennial general purpose revenue (GPR) appropriations for DOC to provide or purchase the following:

1. \$8 million for mental health services for severely mentally ill persons who are on parole or extended supervision and are at high risk of re-offending.
2. \$12 million for a transitional employment program for persons who are on parole or extended supervision, are unemployed, and are at high risk of re-offending.

3. \$10 million for community services to reduce recidivism for persons who are on probation, parole, or extended supervision for a felony.

The draft requires DOC to establish community services that have the goal of increasing public safety, reducing the risk of offenders on community supervision, and reducing the community supervision recidivism rate for persons convicted of a felony by 25% between fiscal year 2008 and fiscal year 2011. Under the draft, the services must target the criminogenic needs of medium- and high-risk offenders and DOC, in establishing alternatives, must consider the capacity of existing services and any gaps in services for medium- and high-risk offenders placed in the community. The community services to reduce recidivism must include alcohol and other drug treatment, including residential treatment, outpatient treatment, and aftercare; cognitive group intervention; day reporting centers; and other services that are evidence based and have been shown to reduce recidivism as promulgated by DOC by rule.

The draft provides that DOC must ensure that the services target offenders who are at medium or high risk for revocation of supervision; provide offenders with needed supervision to improve the offender's opportunity to successfully complete his or her term of probation, parole, or extended supervision; use a system of intermediate sanctions for violations; and be based upon an assessment and evaluation of the offender using valid, reliable, and objective instruments approved by DOC.

The draft requires DOC to develop an accountability system for monitoring and tracking offenders receiving services under this provision in order to evaluate the effectiveness of services provided under this provision.

Under the draft, DOC must provide training and skill development for probation, extended supervision, and parole agents in risk reduction and intervention and must develop policies to guide agents in the supervision and revocation of offenders on community supervision and best practices relating to the use of alternatives to revocation of supervision. DOC must promulgate rules setting forth the requirements for staff training and skill development.

DOC is required, under the draft, to report annually to the Governor, the Legislature, and the Director of State Courts on the scope of services provided, the number of arrests, re-convictions, and returns to prison, progress toward the goal of reducing recidivism, and adjustments to services that will be made to reach the goal of reducing revocations by 25% by fiscal year 2011.

WLC: 0428/3

Background

The Justice Center recommended creating a sentencing option that provides offenders with an incentive to complete programs and treatment prior to release from prison while adhering to the principles of Wisconsin's truth-in-sentencing system. The Justice Center proposed providing the court with the ability to impose a risk reduction term of confinement that equals 75% of the confinement time of the person's total sentence so that there is an incentive to complete programming and treatment along with certainty as to the term of confinement.

Description

WLC: 0428/3 permits a court to order a risk reduction sentence for a person who has been convicted of a felony if the court determines that a risk reduction sentence is appropriate and if the person agrees to all of the following:

1. To cooperate in an assessment of the person's criminogenic needs and risk of re-offending.

2. To participate in any programming or treatment ordered by the DOC to address issues raised in any needs or risk assessment conducted by the department.

The draft requires DOC to conduct a validated and objective assessment of the criminogenic needs and risk of re-offending of any person under a risk reduction sentence and requires DOC to provide programming and treatment to address the risks and needs identified in the DOC assessment.

If DOC determines that a person has successfully completed a risk reduction sentence, DOC must release the person to extended supervision after the person has served 75% of the person's term of confinement and must notify the court that the person, to that point, has successfully completed the risk reduction sentence.

Appendix 1

Committee and Joint Legislative Council Votes

The following drafts were recommended by the Special Committee on Justice Reinvestment Initiative Oversight to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature.

Special Committee Vote

The Special Committee voted to recommend WLC: 0425/3, excluding the bracketed language in SECTIONS 1 and 2 of the bill draft, to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the draft was as follows:

- WLC: 0425/3, relating to maximum term of extended supervision: Ayes, 6 (Sen. Taylor; Rep. Turner; and Public Members Chiarkas, Stark, Voelker, and White); Noes, 4 (Reps. Kleefisch and Suder; and Public Members Dufour and Dwyer); Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

The Special Committee voted to recommend WLC: 0426/3, excluding the bracketed language in SECTION 6 of the bill draft, to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the draft was as follows:

- WLC: 0426/3, relating to the parole and extended supervision revocation process and time spent in prison after revocation: Ayes, 8 (Sen. Taylor; Rep. Turner; and Public Members Chiarkas, Dufour, Dwyer, Stark, Voelker, and White); Noes, 2 (Reps. Kleefisch and Suder); Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

The Special Committee voted to recommend WLC: 0427/3, including the bracketed language in proposed s. 301.068 (5), Stats., to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the draft was as follows:

- WLC: 0427/3, relating to community supervision services: Ayes, 8 (Sen. Taylor; Rep. Turner; and Public Members Chiarkas, Dufour, Dwyer, Stark, Voelker, and White); Noes, 2 (Reps. Kleefisch and Suder); Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

The Special Committee voted to amend WLC: 0428/3 by (1) providing that proposed s. 304.042 (1) (b), Stats., read: "Provide programming and treatment to the person to address risks and needs identified in the assessment under par. (a)." and (2) excluding the bracketed language in proposed s. 304.042 (3), Stats., to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the amendment to the draft was as follows:

- WLC: 0428/3, relating to risk reduction sentence: Ayes, 10 (Sen. Taylor; Reps. Turner, Kleefisch, and Suder; and Public Members Chiarkas, Dufour, Dwyer, Stark, Voelker, and White); Noes, 0; Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

The Special Committee voted to recommend WLC: 0428/3, as amended, to the Joint Legislative Council for introduction in the 2009-10 Session of the Legislature. The vote on the draft was as follows:

- WLC: 0428/3, relating to risk reduction sentence: Ayes, 8 (Sen. Taylor; Rep. Turner; and Public Members Chiarkas, Dufour, Dwyer, Stark, Voelker, and White); Noes, 2 (Reps. Kleefisch and Suder); Absent, 8 (Sens. Kapanke and Olsen; Rep. Grigsby; and Public Members Chisholm, Graves, Humphrey, McNally, and Wray); and Not Voting, 1 (Public Member Streveler).

Appendix 2

Joint Legislative Council

[Joint Legislative Council Members Who Selected and Appointed Committee and Its Membership]

Co-Chair

FRED RISSER

Senate President
5008 Risser Road
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Co-Chair

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Kenosha, WI 53144

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Hudson, WI 54016

MARK GOTTLIEB

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1510 Orchard Dr.
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3820 Southbrook Lane
Wisconsin Rapids, WI 54494

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

Joint Legislative Council

[Current Joint Legislative Council Members Receiving Committee Report]

Co-Chair

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Senate President

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Madison, WI 53703

Co-Chair

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4710 Eastwood Ridge
Racine, WI 53406

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

Appendix 3

JUSTICE REINVESTMENT INITIATIVE OVERSIGHT

Senator Lena Taylor, Chair
1518 West Capitol Drive
Milwaukee, WI 53206

Senator Dan Kapanke
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Representative Tamara Grigsby
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Representative Joel Kleefisch
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Dave Graves, Sheriff
Waukesha County Courthouse
515 West Moreland Boulevard
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Judge Lisa Stark, Branch 1
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Noble Wray, Chief of Police
City of Madison Police Department
211 South Carroll Street
Madison, WI 53703

Representative Robert Turner, Vice-Chair
36 McKinley Avenue
Racine, WI 53404

Senator Luther Olsen
1023 Thomas Street
Ripon, WI 54971

Representative Scott Suder
102 South 4th Avenue
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Kit McNally, Executive Director
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STUDY ASSIGNMENT: The committee is directed to serve as the entity to which the Council of State Governments (CSG) Justice Center reports. The study committee process creates a unique forum in which legislators will receive data from the Justice Center along with public members who work directly in different aspects of the corrections and criminal justice systems. The CSG Justice Center will provide technical assistance relating to corrections costs. Specifically, the technical assistance will include: (1) mapping of specific neighborhoods where large numbers of offenders are released from prison to identify how to improve coordination of services, correctional supervision, and law enforcement; (2) analyzing the prison population to determine what is driving its growth and to identify which categories of offenders are at high risk of re-offending; (3) developing policy options, based upon the data collected, to increase public safety and decrease corrections spending; and (4) projecting the fiscal impact of any policy options identified.

19 MEMBERS: 3 Senators, 4 Representatives, and 12 Public Members.

LEGISLATIVE COUNCIL STAFF: Anne Sappenfield and Ronald Sklansky, Senior Staff Attorneys, and Melissa Schmidt, Staff Attorney; and Julie Learned, Support Staff.

Appendix 4

Committee Materials List (Copies of documents are available at www.legis.state.wi.us/lc)

May 15, 2009 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> • Editorial, <i>Shrinking the Prison Population</i>, submitted by Chair Taylor (May 11, 2009). • Editorial, <i>Time to break prison-spending cycle</i>, submitted by Chair Taylor (May 13, 2009). • WLC: 0425/3, relating to maximum term of extended supervision. • WLC: 0426/3, relating to the parole and extended supervision revocation process and time spent in prison after revocation. • WLC: 0427/3, relating to community supervision services. • WLC: 0428/3, relating to risk reduction sentence. • WLC: 0425/2, relating to maximum term of extended supervision. • WLC: 0426/2, relating to the parole and extended supervision revocation process and time spent in prison after revocation. • WLC: 0427/2, relating to community supervision services. • WLC: 0428/2, relating to risk reduction sentence. 				
May 6, 2009 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> • WLC: 0425/1, relating to maximum term of extended supervision. • WLC: 0426/1, relating to the parole and extended supervision revocation process and time spent in prison after revocation. • WLC: 0427/1, relating to community supervision services. • WLC: 0428/1, relating to risk reduction sentence. • Letter to Senator Lena Taylor from Richard Dufour, Marquette County District Attorney (April 30, 2009). • Report, <i>Analyses & Policy Options to Reduce spending on Corrections and Increase Public Safety</i>, submitted by the Council of state Governments, Justice Center (May 2009). • Milwaukee Journal Sentinel Article, requested by Chair Taylor. • Milwaukee Journal Sentinel Article, requested by Chair Taylor. • Handout, Kansas/Texas outcomes, submitted by Marc Pelka, Policy Analyst, Justice Reinvestment Initiative, Council of State Governments Justice Center. 				
April 22, 2009 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> • Draft document, <i>Analyses & Policy Options to Reduce Spending on Corrections and Increase Public Safety</i>, submitted by the Council of State Governments Justice Center (April 2009). • PowerPoint presentation, <i>Justice Reinvestment Policy Framework for Wisconsin</i>, submitted by Dr. Tony Fabelo, Director of Research, Marshall Clement, Justice Reinvestment Project Director, Mike Eisenberg, Research Manager, and Marc Pelka, Policy Analyst, Council of State Governments Justice Center. 				
April 7, 2009 Meeting	Notice	Agenda	Audio	Minutes
<ul style="list-style-type: none"> • Legislative Audit Bureau's evaluation of mental health care in the Department of Corrections, Department of Health Services: <i>Inmate Mental Health Care</i>: http://www.legis.state.wi.us/lab/reports/09-4full.pdf. • PowerPoint presentation, <i>Final Analysis and Framework for Justice Reinvestment in Wisconsin</i>, submitted by Dr. Tony Fabelo, Director of Research, Dr. Fred Osher, Director of Health Systems and Services Policy, Marshall Clement, Justice Reinvestment Project Director, Hope Glassberg and Marc Pelka, Policy Analysts, Justice Center, Council of State Governments. 				

- [Report](#), *Setting the Framework for a Wisconsin Community Justice Act*, Committee on Effective Strategies for Community Justice (June 2008), submitted by Tony Steveler, Policy Initiatives Advisor, Department of Corrections.
- [Initiatives Summary](#), Summary of Initiatives Referenced at Committee Meeting on 03/11/2009, submitted by Tony Steveler, Policy Initiatives Advisor, Department of Corrections.

March 11, 2009 Meeting

[Notice](#)

[Agenda](#)

[Audio](#)

[Minutes](#)

- [Report](#), Governor's Commission on Reducing Racial Disparities, submitted by Public Member Maxine White.
- [Letter](#) from Senator Lena Taylor, Chair, dated March 3, 2009.
- [Presentation](#), *Interim Analyses on Community Corrections*, submitted by the Council of State Governments Justice Center (March 11, 2009).

January 12, 2009 Meeting

[Notice](#)

[Agenda](#)

[Audio](#)

[Minutes](#)

- [Document](#), submitted by the Council of State Governments Justice Center, *Justice Reinvestment: Overview*.
- [Report](#), submitted by the Council of State Governments Justice Center, *Justice Reinvestment State Brief: Kansas* (October 2007).
- [Report](#), submitted by the Council of State Governments Justice Center, *Justice Reinvestment State Brief: Texas* (October 2007).
- [Report](#), submitted by the Council of State Governments Justice Center, *Reducing Crime & Generating Savings: Options for Arizona Policymakers* (February 2008).
- Council of State Governments Justice Center website: www.justicecenter.csg.org.
- Justice Reinvestment: A Project of the Council of State Governments Justice Center website: www.justicereinvestment.org.
- [Presentation](#), *Challenges and Strategies to Develop a Policy Framework for Wisconsin*, submitted by Dr. Tony Fabelo, Director of Research, Marshall Clement, Justice Reinvestment Project Director, Mike Eisenberg, Research Manager, and Marc Pelka, Policy Analyst, Council of State Governments Justice Center.
- [Presentation](#), *Justice Reinvestment*, submitted by Dr. Tony Fabelo, Director of Research, Marshall Clement, Justice Reinvestment Project Director, Mike Eisenberg, Research Manager, and Marc Pelka, Policy Analyst, Council of State Governments Justice Center.
- [Ten-Year Facility Development Plan](#), Wisconsin Department of Corrections (January 8, 2009).

1 **AN ACT** *to repeal and recreate* 973.01 (2) (d) (intro.) of the statutes; **relating to:**
 2 maximum term of extended supervision.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Justice Reinvestment Initiative Oversight.

Under current law, a court must impose a bifurcated sentence for a person sentenced to imprisonment for a felony, other than a Class A felony, committed after December 31, 1999, or a misdemeanor committed on or after February 1, 2003. A bifurcated sentence includes a period of confinement and a period of extended supervision.

The statutes define the maximum term of imprisonment for each sentence. The term of imprisonment for a bifurcated sentence is broken into 2 phases: confinement and extended supervision.

The statutes also define the maximum term a court may sentence a person to spend in confinement as well as both the minimum and maximum term of extended supervision for classified felonies. The minimum term of extended supervision is not less than 25% of the time one is sentenced to confinement. The maximum terms of confinement and extended supervision for felonies other than a Class A felony are as follows:

- Class B felony: maximum term of confinement is 40 years; maximum term of extended supervision is 20 years.
- Class C felony: maximum term of confinement is 25 years; maximum term of extended supervision is 15 years.
- Class D felony: maximum term of confinement is 15 years; maximum term of extended supervision is 10 years.
- Class E felony: maximum term of confinement is 10 years; maximum term of extended supervision is 5 years.
- Class F felony: maximum term of confinement is 7.5 years; maximum term of extended supervision is 5 years.

1 **AN ACT** *to repeal* 302.113 (9) (at); *to amend* 302.11 (7) (am), 302.11 (7) (b), 302.11
2 (7) (c), 302.113 (9) (am), 302.113 (9) (b) and (c) and 304.06 (3); and *to create*
3 302.11 (2m) and 302.113 (3m) of the statutes; **relating to:** the parole and extended
4 supervision revocation process and time spent in prison after revocation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the Joint Legislative Council’s Special Committee on Justice Reinvestment Initiative Oversight.

Under current law, a person who is sentenced to prison may be released to parole or extended supervision, depending on the date the offense was committed. Extended supervision applies to a bifurcated sentence for a felony committed on or after December 31, 1999, or a misdemeanor committed on or after February 1, 2003. For all other offenses, a person under the department’s community supervision following a prison term is on parole.

To revoke a person’s extended supervision, the statutes require 2 hearings. The first hearing determines whether a person’s extended supervision is revoked. The 2nd hearing determines the length of the term of reconfinement. Unless the first hearing is waived, the revocation decision is determined by a hearing examiner in the Department of Administration, Division of Hearings and Appeals. The 2nd hearing is before the circuit court where the person was convicted.

A hearing examiner decides whether to revoke a person’s extended supervision status and makes a recommendation to the circuit court as to the length of time the person should spend in confinement in prison. The circuit court reviews the hearing examiner’s recommendations and determines the appropriate period of time that the person should spend in confinement. The initial term of confinement and additional terms of confinement following revocations may not exceed the total length of the bifurcated sentence.

To revoke a person’s parole status, the statutes require one hearing before the hearing examiner in the Department of Administration, Division of Hearings and Appeals. The time period a person spends in

prison following parole revocation is determined by the hearing examiner.

Current law also provides a framework for how time spent in prison after revocation may be extended for both extended supervision and parole. For both extended supervision and parole, the superintendent or warden may extend the time spent in prison by the following number of days for each offense, not to exceed the total length of the sentence (for parole) or bifurcated sentence (for extended supervision):

1. 10 days for the first offense.
2. 20 days for the 2nd offense.
3. 40 days for the 3rd and subsequent offenses.

Also, under current law, a person whose parole was revoked may be released from prison earlier than the release date determined by the hearing examiner through a special action release program. The Department of Corrections (DOC) may use a special action release program to place someone on parole if there is prison overcrowding. Current law also allows a person who has served 25% of the sentence or 6 months, whichever is greater, to apply to the parole commission to be released earlier than the release date determined at the revocation hearing.

This draft requires the reviewing authority to order an offender whose parole or extended supervision is revoked to be confined in prison for 6 months or the total length of the remaining sentence (for parole) or bifurcated sentence (for extended supervision), whichever is less. The reviewing authority is the hearing examiner in the Department of Administration, Division of Hearings and Appeals, or the DOC if the hearing is waived.

This draft also gives the DOC the authority to extend the period of time a person spends in confinement after revocation up to 90 days for any of the following violations:

1. Violating any regulation of the prison.
2. Refusing or neglecting to perform required or assigned duties.
3. Refusing or neglecting to participate in programming or treatment as required by the DOC.

The draft removes authority from the parole commission to release a person from prison earlier than the time period determined by the hearing examiner. It retains the ability for the DOC to release a person

from prison through a special action release program if there is prison overcrowding.

1 **SECTION 1.** 302.11 (2m) of the statutes is created to read:

2 302.11 **(2m)** (a) The warden or superintendent shall keep a record of the conduct of each
3 person who is returned to prison after revocation of parole, specifying each infraction of the
4 rules. If a person violates any regulation of the prison, refuses or neglects to perform required
5 or assigned duties, or refuses or neglects to participate in required programming or treatment,
6 the department may extend the release date by not more than 90 days.

7 (b) No extension of the release date under this subsection may require a person to serve
8 more days in prison than provided in the sentence.

NOTE: This SECTION gives the warden or superintendent the authority to extend the release date of a person returned to prison after revocation of parole if the person violates prison regulations, refuses or neglects to perform the duties required or assigned by the DOC, or refuses or neglects to participate in the programming or treatment required by the department. The extension of the release date may not exceed 90 days and may not exceed the total days in prison provided in the sentence.

9 **SECTION 2.** 302.11 (7) (am) of the statutes is amended to read:

10 302.11 **(7)** (am) The reviewing authority may return a parolee released under sub. (1)
11 or (1g) (b) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the sentence
12 or for 6 months, whichever is less, for a violation of the conditions of parole. The remainder
13 of the sentence is the entire sentence, less time served in custody prior to parole. The period
14 of time may be extended in accordance with sub. (2m). The revocation order shall provide
15 the parolee with credit in accordance with ss. 304.072 and 973.155.

NOTE: This SECTION provides that a person whose parole is revoked and who is returned to prison must serve 6 months or the remainder of the sentence, whichever is less. The period of time spent in prison may also be extended according to the procedures explained in SECTION 1 of this draft.

1 **SECTION 3.** 302.11 (7) (b) of the statutes is amended to read:

2 302.11 (7) (b) A parolee returned to prison for violation of the conditions of parole shall
3 be incarcerated for the entire period of time determined by the reviewing authority unless
4 paroled earlier under par. (c). The parolee is not subject to mandatory release under sub. (1)
5 or presumptive mandatory release under sub. (1g). The period of time determined under par.
6 (am) may be extended in accordance with ~~subs. (1q) and (2)~~ sub. (2m).

NOTE: This SECTION changes the cross-reference relating to the authority of a warden or superintendent to extend the time spent in prison following a parole revocation, as specified in SECTION 1 of this draft.

7 **SECTION 4.** 302.11 (7) (c) of the statutes is amended to read:

8 302.11 (7) (c) ~~The parole commission may subsequently parole, under s. 304.06 (1),~~
9 ~~and the~~ department may subsequently parole, under s. 304.02, a parolee who is returned to
10 prison for violation of a condition of parole.

NOTE: This SECTION removes the provision that allows the parole commission to release a person spending time in prison after parole revocation after the person has served 25% of the sentence or 6 months, whichever is greater. It retains DOC authority to use a special action release program to place a person on parole due to prison overcrowding.

11 **SECTION 5.** 302.113 (3m) of the statutes is created to read:

12 302.113 (3m) (a) The warden or superintendent shall keep a record of the conduct of
13 each person who is returned to prison after revocation of extended supervision, specifying
14 each infraction of the rules. If a person violates any regulation of the prison, refuses or neglects
15 to perform required or assigned duties, or refuses or neglects to participate in required
16 programming or treatment, the department may extend the term of confinement in prison by
17 not more than 90 days.

1 (b) No increase of a term of confinement in prison under this subsection may require
2 a person to serve more days in prison than the total length of the bifurcated sentence imposed
3 under s. 973.01.

NOTE: This SECTION gives the warden or superintendent the authority to extend the reconfinement period of a person returned to prison after revocation of extended supervision if that person violates prison regulations, refuses or neglects to perform the duties required or assigned by the DOC, or refuses or neglects to participate in the programming or treatment required by the department. The extension of reconfinement is 90 days, unless the days served in prison would exceed the total length of the bifurcated sentence.

4 **SECTION 6.** 302.113 (9) (am) of the statutes is amended to read:

5 302.113 (9) (am) If a person released to extended supervision under this section violates
6 a condition of extended supervision, the reviewing authority may revoke the extended
7 supervision of the person. If the extended supervision of the person is revoked, ~~the person~~
8 ~~shall be returned to the circuit court for the county in which the person was convicted of the~~
9 ~~offense for which he or she was on extended supervision, and the court~~ the reviewing authority
10 shall order the person to be returned to prison for ~~any specified~~ a period of time that does not
11 exceed equals the time remaining on the bifurcated sentence or for 6 months, whichever is less.
12 The time remaining on the bifurcated sentence is the total length of the bifurcated sentence,
13 less time served by the person in confinement under the sentence before release to extended
14 supervision under sub. (2) and less all time served in confinement for previous revocations of
15 extended supervision under the sentence. ~~The court~~ of the reviewing authority returning
16 a person to prison under this paragraph shall provide the person whose extended supervision
17 was revoked with credit in accordance with ss. 304.072 and 973.155.

NOTE: This SECTION removes the requirement that a court order the period of time spent in prison after extended supervision is revoked and provides that an administrative law judge will order a revocation period

equal to the time remaining on the bifurcated sentence or 6 months, whichever is less.

1 **SECTION 7.** 302.113 (9) (at) of the statutes is repealed.

NOTE: This SECTION removes the statutory requirement that the Department of Administration, Division of Hearings and Appeals must make a recommendation to the circuit court regarding the length of the reconfinement period following a revocation of extended supervision.

2 **SECTION 8.** 302.113 (9) (b) and (c) of the statutes are amended to read:

3 302.113 **(9)** (b) A person who is returned to prison after revocation of extended
4 supervision shall be incarcerated for the entire period of time specified by the ~~court~~ reviewing
5 authority under par. (am). The period of time specified under par. (am) may be extended in
6 accordance with sub. ~~(3)~~ (3m). If a person is returned to prison under par. (am) for a period
7 of time that is less than the time remaining on the bifurcated sentence, the person shall be
8 released to extended supervision after he or she has served the period of time specified by the
9 ~~court~~ reviewing authority under par. (am) and any periods of extension imposed in accordance
10 with sub. ~~(3)~~ (3m).

11 (c) A person who is subsequently released to extended supervision after service of the
12 period of time specified by the ~~court~~ reviewing authority under par. (am) is subject to all
13 conditions and rules under subs. (7) and, if applicable, (7m) until the expiration of the
14 remaining extended supervision portion of the bifurcated sentence. The remaining extended
15 supervision portion of the bifurcated sentence is the total length of the bifurcated sentence, less
16 the time served by the person in confinement under the bifurcated sentence before release to
17 extended supervision under sub. (2) and less all time served in confinement for previous
18 revocations of extended supervision under the bifurcated sentence.

NOTE: This SECTION specifies that the reviewing authority, the Department of Administration, Division of Hearings and Appeals, not

the circuit court, is the entity that orders the length of time a person is returned to prison after extended supervision is revoked.

1 **SECTION 9.** 304.06 (3) of the statutes is amended to read:

2 304.06 (3) Every paroled prisoner remains in the legal custody of the department unless
3 otherwise provided by the department. If the department alleges that any condition or rule of
4 parole has been violated by the prisoner, the department may take physical custody of the
5 prisoner for the investigation of the alleged violation. If the department is satisfied that any
6 condition or rule of parole has been violated it shall afford the prisoner such administrative
7 hearings as are required by law. Unless waived by the parolee, the final administrative hearing
8 shall be held before a hearing examiner from the division of hearings and appeals in the
9 department of administration who is licensed to practice law in this state. The hearing
10 examiner shall enter an order revoking or not revoking parole. Upon request by either party,
11 the administrator of the division of hearings and appeals shall review the order. The hearing
12 examiner may order that a deposition be taken by audiovisual means and allow the use of a
13 recorded deposition under s. 967.04 (7) to (10). If the parolee waives the final administrative
14 hearing, the secretary of corrections shall enter an order revoking or not revoking parole. If
15 the examiner, the administrator upon review, or the secretary in the case of a waiver finds that
16 the prisoner has violated the rules or conditions of parole, the examiner, the administrator upon
17 review, or the secretary in the case of a waiver, may order the prisoner returned to prison to
18 ~~continue serving~~ for the remainder of his or her sentence or for 6 months, whichever is less,
19 or to continue on parole. The period of time spent in prison may be extended in accordance
20 with s. 302.11 (2m). If the prisoner claims or appears to be indigent, the department shall refer
21 the prisoner to the authority for indigency determinations specified under s. 977.07 (1).

NOTE: This SECTION provides that if parole is revoked, the period of time a person is required to spend in prison after parole revocation is 6

months or the remainder of the sentence, whichever is less. The period of time spent in prison may also be extended according to the procedures set forth in SECTION 1 of this draft.

1

(END)

1 **AN ACT** *to create* 20.410 (1) (de), (dm), and (ds) and 301.068 of the statutes; **relating**
 2 **to:** community supervision services.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council’s Special Committee on Justice Reinvestment Initiative Oversight.

This draft creates the following biennial general purpose revenue (GPR) appropriations for the Department of Corrections (DOC) to provide or purchase the following:

1. \$8 million for mental health services for severely mentally ill persons who are on parole or extended supervision and are at high risk of re-offending.
2. \$12 million for a transitional employment program for persons who are on parole or extended supervision, are unemployed, and are at high risk of re-offending.
3. \$10 million for community services to reduce recidivism for persons who are on probation, parole, or extended supervision for a felony.

The draft requires the DOC to establish community services to reduce recidivism that have the goal of increasing public safety, reducing the risk of offenders on community supervision, and reducing the community supervision recidivism rate for persons convicted of a felony by 25% between fiscal year 2008 and fiscal year 2011. Under the draft, the services must target the criminogenic needs of medium- and high-risk offenders and the DOC, in establishing services, must consider the capacity of existing services and any gaps in services for medium- and high-risk offenders placed in the community. The community services must include alcohol and other drug treatment, including residential treatment, outpatient treatment, and aftercare; cognitive group intervention; day reporting centers; and other services that are evidenced based and have been shown to reduce recidivism as promulgated by the DOC by rule.

The draft provides that the DOC must ensure that the services target offenders who are at medium or high risk for revocation of supervision;

provide offenders with needed supervision to improve the offender's opportunity to successfully complete his or her term of probation, parole, or extended supervision; use a system of intermediate sanctions for violations; and be based upon an assessment and evaluation of the offender using valid, reliable, and objective instruments approved by the DOC.

The draft requires the DOC to develop an accountability system for monitoring and tracking offenders receiving services under this provision in order to evaluate the effectiveness of services provided under this provision.

Under the draft, the DOC must provide training and skill development for probation, extended supervision, and parole agents in risk reduction and intervention and must develop policies to guide agents in the supervision and revocation of offenders on community supervision and best practices relating to the use of alternatives to revocation of supervision.

The DOC is required, under the draft, to report annually to the governor, the legislature, and the director of the state courts on the scope of services provided, the number of arrests, re-convictions, and returns to prison, progress toward the goal of reducing recidivism, and adjustments to services that will be made to reach the goal of reducing recidivism by 25% by fiscal year 2011.

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the
2 following amounts for the purposes indicated:

				2009-10	2010-11
3					
4	20.410	Corrections, department of			
5	(1)	ADULT CORRECTIONAL SERVICES			
6	(de)	Community-based mental health			
7		services	GPR	A	\$4,000,000 \$4,000,000

					2009–10	2010–11
1	(dm)	Transitional employment program	GPR	A	\$6,000,000	\$6,000,000
2	(ds)	Community services for persons on				
3		probation, parole, or extended				
4		supervision	GPR	A	\$5,000,000	\$5,000,000

5 **SECTION 2.** 20.410 (1) (de), (dm), and (ds) of the statutes are created to read:

6 20.410 (1) (de) The amounts in the schedule to provide or purchase mental health
7 services for severely mentally ill persons who are transitioning to or who are on parole or
8 extended supervision who are at high risk of re-offending.

9 (dm) The amounts in the schedule to provide or purchase a transitional employment
10 program for persons who are transitioning to or who are on parole or extended supervision,
11 are unemployed, and are at high risk of re-offending.

12 (ds) The amounts in the schedule to provide or purchase community services to reduce
13 recidivism under s. 301.068 for persons on probation or who are transitioning to or are on
14 parole or extended supervision for a felony conviction.

NOTE: Creates GPR appropriations for the DOC to provide mental health services, transitional employment programs, and community services to reduce recidivism for persons who are on community supervision or are transitioning to supervision.

15 **SECTION 3.** 301.068 of the statutes is created to read:

16 **301.068 Community services to reduce recidivism.** (1) The department shall
17 establish community services that have the goal of increasing public safety, reducing the risk
18 of offenders on community supervision, and reducing the recidivism rate of persons on
19 probation, parole, or extended supervision for a felony conviction by 25% between fiscal year
20 2008 and fiscal year 2011. The services to reduce recidivism shall target the criminogenic

1 needs of medium- and high-risk offenders and, in establishing services under this section, the
2 department shall consider the capacity of existing services and any gaps in services for
3 medium- and high-risk offenders placed in the community.

4 (2) The community services to reduce recidivism shall include all of the following:

5 (a) Alcohol and other drug treatment, including residential treatment, outpatient
6 treatment, and aftercare.

7 (b) Cognitive group intervention.

8 (c) Day reporting centers.

9 (d) Other treatment and services that are evidence based and have been shown to reduce
10 recidivism as promulgated by the department by rule.

11 (3) The department shall ensure that services provided under this section meet all of the
12 following conditions:

13 (a) Target offenders at medium or high risk for revocation as determined by valid,
14 reliable, and objective risk assessment instruments approved by the department.

15 (b) Provide offenders with needed supervision and services to improve the offender's
16 opportunity to successfully complete his or her term of probation, parole, or extended
17 supervision. These services may include employment training and placement, educational
18 assistance, transportation, and housing. The services shall address the offender's
19 criminogenic risks, needs, and responsivity characteristics.

20 (c) Use a system of intermediate sanctions for violations.

21 (d) Be based upon an assessment and evaluation of the offender using valid, reliable,
22 and objective instruments approved by the department.

23 (4) The department shall develop an accountability system for monitoring and tracking
24 offenders receiving services under this section in order to evaluate the effectiveness of

1 services provided under this section in decreasing arrests, re-convictions, and returns to
2 prison among the persons participating in services provided under this section.

3 (5) The department shall provide training and skill development for probation,
4 extended supervision, and parole agents in risk reduction and intervention and shall develop
5 policies to guide probation, extended supervision, and parole agents in the supervision and
6 revocation of offenders on probation, extended supervision, and parole and best practices
7 relating to the use of alternatives to revocation of supervision. The department shall
8 promulgate rules setting forth the requirements for staff training and skill development under
9 this subsection.

10 (6) The department shall report annually to the governor, the chief clerk of each house
11 of the legislature for distribution to the appropriate standing committees under s. 13.172 (3),
12 and the director of state courts. The report shall set forth the scope of the services provided
13 under this section; the number of arrests, re-convictions, and returns to prison of persons on
14 probation, parole, or extended supervision among offenders receiving services under this
15 section; progress toward the goal under sub. (1) of reducing recidivism by 25% by fiscal year
16 2011; and adjustments to services that will be made to reach the goal of reducing recidivism
17 by 25% by fiscal year 2011.

NOTE: Requires the DOC to establish community services to reduce
recidivism that have the goal of increasing public safety, reducing the
risk of offenders on community supervision, and reducing the rate of
recidivism by 25% between fiscal year 2008 and fiscal year 2011 and
sets forth the requirements for these services.

1 **AN ACT** to create 302.042 and 973.031 of the statutes; **relating to:** risk reduction
 2 sentence.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council’s Special Committee on Justice Reinvestment Initiative Oversight.

The draft permits a court to order a risk reduction sentence for a person who has been convicted of a felony if the court determines that a risk reduction sentence is appropriate and if the person agrees to all of the following:

1. To cooperate in an assessment of the person’s criminogenic needs and risk of re-offending.
2. To participate in any programming or treatment ordered by the Department of Corrections (DOC) to address issues raised in any risk assessment conducted by the department.

The draft requires DOC to conduct a criminogenic needs and risk assessment of any person under a risk reduction sentence and requires the department to provide programming and treatment to address the risks and needs identified in the risk assessment.

If the department determines that a person has successfully completed a risk reduction sentence, the department must release the person to extended supervision after the person has served 75% of the person’s term of confinement and must notify the court that the person has, to that point, successfully completed the risk reduction sentence.

3 **SECTION 1.** 302.042 of the statutes is created to read:

4 **302.042 (1)** The department shall provide risk reduction programming and treatment
 5 for an inmate sentenced to a risk reduction sentence under s. 973.031.

6 **(2)** The department shall do all of the following for a person who is sentenced to a risk
 7 reduction sentence:

1 (a) Conduct a validated and objective assessment of the person's criminogenic needs
2 and risk of re-offending.

3 (b) Provide programming and treatment to the person to address risks and needs
4 identified in the assessment under par. (a).

5 (3) If the department determines that an inmate serving a sentence imposed under s.
6 973.031 has successfully completed the assessment and treatment or programming required
7 by the department under sub. (2), the department shall release the inmate to extended
8 supervision after he or she has served 75% of the term of confinement portion of the sentence
9 imposed under s. 973.01. The department shall notify the court at least 30 days before the
10 inmate has served 75% of the term of confinement portion of the inmate's bifurcated sentence
11 that the inmate has, to that point, successfully completed the requirements of the risk reduction
12 sentence.

NOTE: This SECTION provides that DOC must provide a risk and needs assessment and risk reduction programming and treatment for an inmate sentenced to a risk reduction sentence. A risk reduction sentence is a sentence that a court may order if the court determines it is appropriate and if a person convicted of a felony agrees to all of the following:

1. To cooperate in an assessment of the person's criminogenic needs and risk of re-offending.
2. To participate in any programming or treatment ordered by the DOC to address issues raised in any needs and risk assessment.

Following the imposition of a risk reduction sentence, the DOC must conduct a needs and risk assessment and provide appropriate programming and treatment to the convicted person. If the DOC determines that an inmate serving a risk reduction sentence has successfully completed the required assessment and treatment or programming, the DOC must release the inmate to extended supervision after the inmate has served 75% of the confinement portion of his or her sentence. The DOC must notify the sentencing court at least 30 days before the inmate has served 75% of the term of confinement that the inmate has, to that point, successfully completed the risk reduction sentence.

1 **SECTION 2.** 973.031 of the statutes is created to read:

2 **973.031 Risk reduction sentence.** When a court sentences a person who is convicted
3 of a felony to imprisonment in a state prison, the court may order the person to serve a risk
4 reduction sentence if the court determines that a risk reduction sentence is appropriate and if
5 the person agrees to all of the following:

6 (1) To cooperate in an assessment of the person's criminogenic needs and risk of
7 re-offending.

8 (2) To participate in any programming or treatment ordered by the department to
9 address issues raised in any needs and risk assessment under sub. (1).

NOTE: This SECTION permits a court to sentence a person convicted of a
felony to a risk reduction sentence.

10

(END)