



Wisconsin State Public Defender

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Legislative Council Committee on Removing Impediments to Ex-Offender Employment
1 E. Main St.
Madison, WI 53703

Dear Committee Members,

Unfortunately, I am unable to join the committee for the October 19 meeting. I would like to summarize for the committee the work that the State Public Defender's office has undertaken since the last committee meeting and offer some suggestions for topics that address the scope of the committee's charge. While there are endless suggestions on this topic, some of which are summarized below, in the interests of the scope and timeframe related to the committee's work, we offer the following suggestions.

Provision of Medication on Release

The committee has heard from the Department of Corrections (DOC) on some of the details related to providing medication at release. Our general understanding is that the current process involves DOC providing up to two weeks of medication, a prescription for a refill, and a list of medical providers to people upon release. DOC has demonstrated a dedication and willingness to expand this process further.

DOC has sought and had its Central Pharmacy recognized as a Medicaid dispensary. To fill four weeks of a prescription for availability on the day of release, DOC would require a waiver from the state Department of Health Services (DHS) or from the federal Department of Health and Human Services.

We have contacted DHS, and the Department is in the process of reviewing what the next steps may be to move this decision forward.

This policy may not in the end require a legislative solution, but this committee may wish to offer its support for this policy in the form of a written communication with DOC and DHS.

Enrollment Upon Release

Another medication-related issue is conducting an eligibility test for BadgerCare before release. This process would be beneficial because if eligibility was determined before release, enrollment would occur more quickly post-release, which would help to address the continuity-of-medication issue.

In 2010, the Opening Avenues to Reentry Success (OARS) program began enrolling participants in this joint DOC and DHS program. One of the goals of the program is to provide individualized case management, including facilitating eligibility testing pre-release. Currently, OARS provides support in 37 counties. The DOC 2017-2019 agency budget request includes an expansion to 5 additional counties.

We have asked DHS if there are other ideas to consider beyond the expansion of the OARS program. We anticipate additional feedback from DHS that this committee could consider. While an expansion of an

existing program such as OARS may be a fiscal consideration beyond the scope of a legislative council committee, there may be some support this committee could offer in terms of utilizing an already existing program with a proven track record of success.

Provision of Identification on Release

DOC assists individuals pending release with obtaining either a state-issued identification card or a driver's license. If a social security card is not available, DOC will provide access to forms to obtain a birth certificate from the Vital Records Office at DHS. There is a \$20 fee, which places obtaining this vital form of identification beyond the means of many inmates. This \$20 fee becomes a major impediment to having a document that is critical to obtaining employment, housing, education, and transportation.

While providing a free copy to the approximately 1200 people per year who need a birth certificate carries obvious fiscal implications for DHS, perhaps other options such as a reduced fee or allowing the fee to be paid at a future date could be options for this committee to consider.

We have presented this topic to DHS and asked for feedback on other possible options for the committee.

Collateral Consequences for Occupational Licenses

We reviewed individual license application restrictions based on conviction and found that it may be too difficult to make changes to individual licenses outside the scope of the regulatory councils housed at the Department of Safety and Professional Services (DSPS).

One concept that the committee could consider is inserting a time frame after a conviction at which point a person with a felony conviction would be allowed to apply for a license. Chapter 111 of the statutes deals with employment relations. Specifically, s. 111.335 limits the ability to be licensed based on certain arrest and conviction records.

This section has a general rule that permits employers and licensing authorities to consider whether the circumstances of a prior conviction are "substantially related" to the employment or occupation in question. However, there are also several subsections that make any felony (even without any factual connection to the employment or occupation in question) a permanent disqualifier.

For some of these permanent disqualifiers, the committee could add a time frame after conviction at which a person could apply for a license. One example could be as follows:

[111.335\(1\)\(cx\)](#) Notwithstanding s. [111.322](#), it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensure, any individual who has been convicted of any offense under s. [38.50 \(13\) \(c\)](#) within 5 years of the date of the application.

The list of restricted occupations based on a felony conviction includes:

- Wis. Stat. 440.26 Licenses (not allowed to have with felony conviction)
 - Private Detective

- Private Security Personnel (any private police, guard, or any person who stands watch for security purposes)
- Private Investigator
- Special Investigator
- Wis. Stat. 440.26 Permits (not allowed to have with felony conviction)
 - Private Security Permit
 - Temporary Private Security Permit
- Installer of Burglar Alarms
- Ch. 125 Licenses/Permits (not allowed to have with felony conviction or as a habitual offender)
 - Class A license for the sale of fermented malt beverages (consumption off premises)
 - Class B license for the sale of fermented malt beverages (consumption on or off premises)
 - Class B permits for the sale of fermented malt beverages (consumption on premises) in country clubs if the club is not open to the general public
 - Industrial fermented malt beverage permits
 - Wholesalers' permits
 - Brewers' Permit
 - Brewpub Permit
 - Out-of-state shippers' permits (authorize the permittee to ship fermented malt beverages only to holder of a wholesaler's permit)
 - Manager's Licenses

If the committee is interested in pursuing any of these options, it should invite more information and expertise from the Department of Safety and Professional Services.

Expanded Apprenticeship Options

We have had several conversations with individuals related to employment workforce needs and availability of a trained workforce. Although there has been good progress in the last couple of years, it seems that this is an area that has a lot of room for growth and additional cross-agency coordination.

Feedback and testimony from the employers to the committee indicates a need for “soft skills” that are necessary for all vocations (this need may be greater than the need for technical skills). The Windows to Work program operated by DOC has laid the groundwork for offering this training both pre- and post-release. It currently is only available to 450 inmates, a small percentage of those who would benefit from the training. An expansion of this program would be one easy and obvious way to increase capacity for soft-skill training.

In terms of inter-agency collaboration, DWD and the various Workforce Investment Boards have been working collaboratively with DOC to expand formal apprenticeship training both pre-release and post-release. One potential focus would be on how a person transitions from pre-release Workforce Investment Board services to services in a different region post-release. This focus would require more input from DWD and others involved in the operation of workforce investment boards, but a smooth transition from one region to another would better ensure that services continue post-release.

One idea that we have mentioned to DOC, DWD, and employers representatives is a more complete apprenticeship opportunity pre-release. Currently, DOC and DWD have collaborated on providing the educational component of an apprenticeship pre-release. The practical work requirement of an apprenticeship must be completed post-release but there is little in terms of coordinated, systematic effort to match people with employers post-release to gain the work experience of the apprenticeship.

Conceptually, a program might be given further study that would allow for work release to complete the work component while in minimum security status. In general terms, an inmate would receive and complete the education component of an apprenticeship. While in minimum security, an employer could offer a regular paid apprenticeship position to both meet the employer's workforce need as well as ensure the individual completes the work component of the apprenticeship, possibly even pre-release.

Not only could the income earned be used to partially offset any costs of providing transportation to and from the correctional facility, but it could be used to both provide some amount of available money post-release and to pay any restitution or supervision fees owed as a result of conviction.

Aside from the additional logistics and coordination of creating this coordinated program, additional changes would be needed in the process of reviewing and approving community custody status for minimum security inmates.

Other topics for the committee to consider suggesting for further study

Given the vast number of potential solutions to the issues this committee has heard, we recommend that the committee create a report that details and recommends additional concepts for consideration by the 2017-2018 Wisconsin Legislature. Here are a few of the potential ideas to include in the report:

- Remove "at the time of sentencing" from expunction statute
- Change to revocation for technical rules violations
- Earned good time and credit for time on community supervision
- Other mechanisms for removing impediments based on conviction such as Certificate of Qualification for Employment
- "Surcharge fatigue" - the impact on recidivism and victim compensation of excessive fines, fees, forfeitures and surcharges
- Statutory limitation on websites that extort a fee to remove arrest and conviction records

My staff and I are happy to continue to work on any of these issues at the committee's direction. Thank you for the ability to provide this written summary.

Sincerely,

Kelli Thompson
State Public Defender