

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/5/00
BILL NO. SB292
OR
SUBJECT _____

Senator Abata Darling
(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/5/2000
BILL NO. SB 292
OR
SUBJECT _____

Rep Phil Montgomery
(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: Jan 5, 2000
BILL NO. SB 292
OR
SUBJECT _____

Ken Bukowski
(NAME)
P.O. Box 23600

(Street Address or Route Number)

GREEN BAY, WI
(City and Zip Code)

BROWN COUNTY
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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Lowley

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1/5/2000

BILL NO. SB 292

OR

SUBJECT Bookings Code

Sen Robert Cowles
(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 1-5-00

BILL NO. SB 292

OF

SUBJECT _____

Carol Drednick-Kasdorf

(NAME)

100 River Place, Suite 10

(Street Address or Route Number)

Monona 53716

(City and Zip Code)

Wisconsin Counties Association

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms

State Capitol - B35 South

P.O. Box 7882

Madison, WI 53707-7882

Vote Record

Senate Committee on Insurance, Tourism, Transportation and Corrections

Date: 1/5/00
 Moved by: Schultz Seconded by: Grobschmidt
 AB: _____ Clearinghouse Rule: _____
 AB: _____ SB: 292 Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 A: _____ SR: _____

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

- Be recommended for:
- | | |
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| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

Committee Member

Sen. Roger Breske, Chair
 Sen. Richard Grobschmidt
 Sen. Jim Baumgart
 Sen. Kevin Shibilski
 Sen. Dale Schultz
 Sen. Alan Lasee
 Sen. David Zien

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
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Totals: _____

Motion Carried

Motion Failed

SB 292

ROGER BRESKE

STATE SENATOR

12th District

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State Capitol
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Madison, WI 53707-7882
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Home Address:
8800 Hwy. 29
Eland, WI 54427
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Legislative Hotline:
1 (800) 362-9472

*Specific Information Signs
S.I.S.*



COMMITTEE MEETING/AGENDA

THE CAPITOL – ROOM 201SE

January 4, 2000

I. CALL TO ORDER

“The hour of 10AM having arrived, I will call this meeting of the Senate Insurance, Tourism, Transportation and Corrections Committee to order. The clerk will take the role.”

II. ASSEMBLY BILL 444

“The first bill up today is AB444, legislation initiated by the Law Revision Committee.”

*An amendment has been distributed
No one registered to speak on this bill. Does Legislative Council have any comments on the bill?*

The bill was unanimously approved by the Assembly Committee on Transportation and passed on a voice vote by the full Assembly.

III. SENATE BILL 257

We're going to take SB257 out of order at this time.

“This legislation relates to minimum standards for life insurance policies in which the proceeds are assigned to funeral directors or funeral establishments.”

Work out By Rule

IV. ASSEMBLY BILL 482

“Relating to: specific information signs advertising seasonal food service.”

V. ASSEMBLY BILL 551

“This legislation is a comprehensive, technical bill initiated by OCI. I'd like to ask Eileen Mallow to give the committee a brief overview of the bill on behalf of the Commissioner.”

The bill ~~was~~^{has} passed the Assembly Insurance Committee unanimously and the full Assembly on a voice vote. I have received a request from a Committee member for a one week delay. I will honor this request, but will either paper ballot the bill after one week or schedule for our next Executive Session on January 19.



VI. SENATE BILL 292

Relating to: prisoner reimbursement to county for booking costs.

I have introduced an amendment to SB292, a copy of which has been circulated to members.

VII. SENATE BILL 300

Relating to low-speed vehicles, granting rule-making authority and providing a penalty.

I will now close the public hearing portion of this hearing. And will now call the Committee to order for an Executive Session.

The clerk will take the roll.

The Chair would entertain a motion to adopt ^{the amendment to} AB444 – The Law Revision Committee Bill.

... *Entertain motion to adopt AB444 as amended.*

The Chair would entertain a motion to adopt AB482 – The Specific Sign Bill

...

The Chair would entertain a motion to adopt the amendment to SB292 – Booking costs for prisoners bill.

...

The Chair would entertain a motion to adopt SB292 as amended.

...

The Chair would entertain a motion to adopt SB300 – The low speed vehicle bill.

...

I will now close the Executive Session. The Committee stands adjourned.

**SHERIFF'S DEPARTMENT
JAIL DIVISION****Brown County**

300 EAST WALNUT
P.O. BOX 22003
GREEN BAY, WISCONSIN 54305-2003
PHONE (414) 448-4200 FAX (414) 448-4206



THOMAS J. HINZ
SHERIFF

December 30, 1999

Senator Robert L. Cowles
Room 7 South
State Capitol
PO Box 7882
Madison WI 53707-7882

Dear Senator Cowles:

On behalf of the Brown County Sheriff's Department, I would like to thank you for your continued support of Senate Bill 292.

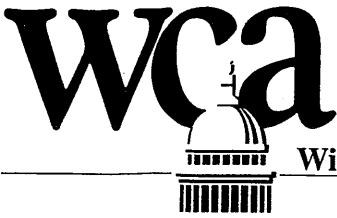
Booking fees are a logical solution for local governments that face rising costs for incarcerating and providing programs for inmates, and I have found that many jails around the country are continually identifying new options for offsetting these costs.

As one of many Wisconsin counties faced with jail overcrowding, new jail construction, and the continued rise in the costs of incarceration, we have long felt that the responsibility for these expenses should be shared by the increasing number of those individuals who create these demands on the taxpayer. Senate Bill 292 will assist us, and all Wisconsin counties in getting that message across.

Thank you again for your support. If I can be of any assistance in your efforts, please do not hesitate to contact me.

Sincerely,



Captain Hugh Janssen
Jail Administrator



Wisconsin Counties Association

MEMORANDUM

TO: Honorable Members of the Senate Committee on Insurance, Tourism,
Transportation and Corrections

FROM: Sarah Diedrick-Kasdorf, Legislative Associate 

DATE: January 5, 2000

SUBJECT: Support for Senate Bill 292

The Wisconsin Counties Association supports Senate Bill 292 which authorizes counties to recoup the cost of fingerprinting, photographing, assessing and evaluating a person and collecting information from the person (booking) at the start of the person's confinement in the county jail.

During the 1995-96 legislative session, WCA strongly supported AB 444, the "pay for stay" bill, which allowed counties to charge prisoners for costs associated with confinement. Senate Bill 292 expands upon the language contained in 1995 AB 444 by allowing counties to recoup their costs associated with booking an individual into the county jail.

Few counties across the state of Wisconsin are currently charging prisoners for their stay in the county jail. This is certainly not due to the fact that counties do not need the revenue but, instead, current statutes require that counties determine the financial status of the prisoner, which can be cumbersome and time-consuming. Additionally, it is difficult for counties to collect payments from county jail inmates once they have been released from the jail and given the likelihood of collection, it is not cost effective for many counties to implement "pay for stay".

Senate Bill 292 eases the process for county collections by: (1) charging each individual booked in the jail a single jail processing assessment; (2) allowing counties to make deductions from the prisoner's canteen account; (3) not requiring counties to assess the prisoner's financial status prior to collection.

WCA also supports Senate Amendment 1 to Senate Bill 292 that requires the return of the jail processing assessment if an individual is not convicted of a crime.

Booking inmates into the county jail can take considerable time when done properly. With counties across the state looking at implementing objective jail classification for the protection of the public, county jail staff and county jail inmates, passage of Senate Bill 292 will greatly assist counties in achieving this goal. In addition, the revenue collected

100 River Place, Suite 101 ♦ Monona, Wisconsin 53716 ♦ 608/224-5330 ♦ 800/922-1993 ♦ Fax 608/224-5325

Mark M. Rogacki, Executive Director

Mark D. O'Connell, Chief of Staff
Craig M. Thompson, Legislative Director

Darla M. Hium, Deputy Director
Lynda L. Bradstreet, Administrative Director

WCA Memo
January 5, 2000
Page 2

from the booking fee can be used to offset the costs of inmate services, such as programming or educational activities.

WCA urges you to support Senate Bill 292.

Thank you for considering our comments.



ROBERT L. COWLES

Wisconsin State Senator • 2nd Senate District

TESTIMONY ON SENATE BILL 292 BY SENATOR COWLES

SENATE COMMITTEE ON INSURANCE, TOURISM, TRANSPORTATION AND CORRECTIONS JANUARY 5, 2000 201 SOUTHEAST STATE CAPITOL

Senator Breske and members of the Committee, thank you for the opportunity to testify on Senate Bill 292 today, relating to prisoner reimbursement to counties for booking costs.

The driving force behind Senate Bill 292 is the immediate concern of Brown County to collect a one-time fee to cover the costs of booking inmates in county jails. The one-time fee would be applied to the costs incurred in the booking process of the inmate. With enactment of this bill, counties would be able to recoup the cost of finger printing, photographing, assessing and evaluating a person at the start of a person's confinement in the county jail.

Under current law, counties can pursue cost reimbursement for daily room and board expenses. Senate Bill 292 simply broadens the scope of current law to include inmates to be held responsible for paying further for their incarceration costs. It is the concern of the counties that those individuals who are sentenced to county jails should reimburse the county taxpayers for the cost of their expenses while serving jail time. This legislation will provide the counties the

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Green Bay, WI 54301-2328
414-448-5092

flexibility to collect this segregated fee to offset operating costs of the county jails, which is ultimately borne by taxpayers. It is not the responsibility of the taxpayers to pay for incarceration costs of inmates.

I believe that there should be some mechanism put in place that would require inmates not found guilty to receive their booking fee back. To address this concern, I have provided an amendment to Chairman Breske that would require counties to return all money collected for the related prisoner processing costs, should the incarcerated inmate be found not guilty.

I hope that the Committee would support Senate Bill 292 with the above mentioned amendment.

Thank you.



**STATE BAR
of WISCONSIN**

5302 Eastpark Blvd.
P.O. Box 7158
Madison, WI 53707-7158

MEMORANDUM

To: Senate Insurance, Tourism, Transportation and Corrections Committee
From: Ray Dall'Osto, Chair of Criminal Law Section
Date: January 3, 2000
Re: SB 292

The Criminal Law Section of the State Bar of Wisconsin is currently reviewing SB 292, which would require prisoners to pay for the costs of bookings.

We expect that we will take a position on the bill at our January meeting in late January.

In reviewing it, I have identified two problems that may raise constitutional questions.

1. The bill would impose costs even if the prisoners charges are dismissed or if the prisoner is found not guilty,
2. If someone goes to jail on one charge, but two or three others are dismissed, booking charges are still imposed.

Both of these problems violate the Giaccio rule (attached).

We hope that you can work to find a solution to these problems.

If you have any questions or concerns for our membership (which includes prosecutors, judges, and defense attorneys) feel free to contact Cory Mason, Government Relations Coordinator at the State Bar of Wisconsin at 1/800-444-9404 x6128, email at 'cmason@wisbar.org'; or Attorney Ray Dall'Osto, Chair of the Criminal Law Section at 414/271-1440, email at 'dallosto@execpc.com.'



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Act of Congress."
614-615, 164 So 2d
granted certiorari,
ed 2d 819, 85 S Ct
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" within the mean-
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*[382 US 399]

*JAY GIACCIO, Appellant,

v

STATE OF PENNSYLVANIA

382 US 399, 15 L ed 2d 447, 86 S Ct 518

[No. 47]

Argued December 6, 1965. Decided January 19, 1966.

SUMMARY

Notwithstanding defendant's acquittal of a charge of a misdemeanor, the jury, in a Pennsylvania state court, assessed costs against him pursuant to a statute authorizing it to do so. The trial court set aside the jury's verdict imposing costs on the defendant, holding that the statute was void for vagueness (30 Pa D & C2d 463), but the Pennsylvania Superior Court reversed the trial court (202 Pa Super 294, 196 A2d 189), and the Pennsylvania Supreme Court affirmed the judgment of the Superior Court (415 Pa 139, 202 A2d 55).

On appeal, the Supreme Court of the United States reversed. In an opinion by BLACK, J., expressing the views of seven members of the Court, it was held that the statute was so vague as to violate the due process clause of the Fourteenth Amendment.

STEWART, J., concurred, finding the due process violation in the fact that the statute allowed a jury to punish a defendant after finding him not guilty.

FORTAS, J., concurred on the same ground.

HEADNOTES

Classified to U. S. Supreme Court Digest, Annotated

Statutes § 18 — criminal — vagueness state statute which provides that in
1. The due process clause of the all cases of acquittals by the petit jury
Fourteenth Amendment is, on the for offenses other than felonies the
ground of vagueness, violated by a jury shall determine whether defend-

ANNOTATION REFERENCES

Indefiniteness of language as affecting validity of criminal legislation. 96 L ed 374, 97 L ed 203.

Illustrations as to when statute defining criminal offense is subject to attack as vague, indefinite, or uncertain. 83 L ed 893.

Vagueness or indefiniteness of statute as rendering it unconstitutional or inoperative. 70 L ed 322.

Items of costs of prosecution for which defendant may be held. 65 ALR2d 854.

st him. The Act, with-
 a single condition, lim-
 ntgency on a jury
 itted a defendant sim-
 rors "shall determine,
 ict, whether
 , shall pay the costs"
 rial judge is told he
 ith pass sentence to
 d order him [defend-
 mitted to the jail of
 ere to remain until he
 gives security for the
 nly one of the basic
 e Due Process Clause
 an to protect a person
 ; the Government im-
 pon him except in ac-
 the valid laws of the
 in this constitutional
 he premise that the
 is that carries an un-
 meaning with legal
 courts must enforce.
 as written does not
 eet this constitution-

State contends that
 would have been void
 as it was originally
 uent state court in-
 ave provided stand-
 that cure the former
 deficiencies. We do
 of the so-called court-
 ons and standards
 jury such broad and
 in imposing costs on
 lants that the jurors
 terminations of the
 on their own notions
 should be instead of
 nsylvania decisions
 to time said express-
 implied, that juries
 US 404]
 e defendant not *guilty
 ts upon him if they
 duct, though not un-
 hensible in some re-
 [15 L ed 2d]

spect," "improper," outrageous to
 "morality and justice," or that his
 conduct was "not reprehensible
 enough for a criminal conviction but
 sufficiently reprehensible to deserve
 an equal distribution of costs" or
 that though acquitted "his innocence
 may have been doubtful." In this
 case the trial judge instructed the
 jury that it might place the costs of
 prosecution on the appellant, though
 found not guilty of the crime
 charged, if the jury found that "he
 has been guilty of some misconduct
 less than the offense which is
 charged but nevertheless misconduct
 of some kind as a result of which he
 should be required to pay some pen-
 alty short of conviction [and] . . .
 his misconduct has given rise to the
 prosecution."

It may possibly be that the trial
 court's charge comes nearer to giv-
 ing a guide to the jury than those
 that preceded it, but it still falls
 short of the kind of legal standard
 due process requires. At best it
 only told the jury that if it found

appellant guilty of "some mis-
 conduct" less than that charged
 against him, it was authorized
 by law to saddle him with the State's
 costs in its unsuccessful prosecution.
 It would be difficult if not impossible
 for a person to prepare a defense
 against such general abstract
 charges as "misconduct," or "repre-
 hensible conduct." If used in a *stat-
 ute* which imposed forfeitures, pun-
 ishments or judgments for costs,
 such loose and unlimiting terms
 would certainly cause the statute to
 fail to measure up to the require-
 ments of the Due Process Clause.
 And these terms are no more effec-
 tive to make a statute valid which
 standing alone is void for vagueness.

[382 US 405]

[1] *We hold that the 1860 Act is
 constitutionally invalid both as writ-
 ten and as explained by the Pennsyl-
 vania courts.⁸ The judgment against
 appellant is reversed and the case is
 remanded to the State Supreme
 Court for further proceedings not in-
 consistent with this opinion.

Reversed and remanded.

SEPARATE OPINIONS

Mr. Justice Stewart, concurring.

I concur in the Court's determina-
 tion that the Pennsylvania statute
 here in question cannot be squared
 with the standards of the Fourteenth
 Amendment, but for reasons some-
 what different from those upon
 which the Court relies. It seems to
 me that, despite the Court's dis-
 claimer,† much of the reasoning in
 its opinion serves to cast grave con-
 stitutional doubt upon the settled

practice of many States to leave to
 the unguided discretion of a jury the
 nature and degree of punishment to
 be imposed upon a person convicted
 of a criminal offense. Though I have
 serious questions about the wisdom
 of that practice, its constitutionality
 is quite a different matter. In the
 present case it is enough for me that
 Pennsylvania allows a jury to punish
 a defendant after finding him not
 guilty. That, I think, violates the

7. The foregoing quotations appear in
 a number of Pennsylvania cases including
 Commonwealth v Tilghman, 4 S & R 127;
 Baldwin v Commonwealth, 26 Pa 171;
 Commonwealth v Daly, 11 Pa Dist 527
 (Q. S. Clearfield); and in the opinion of the
 Superior Court in this case, 202 Pa Super
 294, 196 A2d 189.

8. In so holding we intend to cast no
 doubt whatever on the constitutionality
 of the settled practice of many States to
 leave to juries finding defendants guilty
 of a crime the power to fix punishment
 within legally prescribed limits.

† See n 8, supra.