# 2001 DRAFTING REQUEST

# Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001					Received By: mdsida			
Wanted: As time permits				Identical to LRB:				
For: Senate Democratic Caucus					By/Representing: Keckhaver			
This file may be shown to any legislator: NO				Drafter: mdsida				
May Contact:				Addl. Drafters:				
Subject: Correctional System - prisons State Government - state bldg pr					Extra Copies:	rpn, jtk		
Submit vi	ia email: NO				+			
Requester	r's email:							
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SDC:	Keckhaver - C	N1093,						
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Preconstr	uction enumer	ration requireme	ent for priso	ons				
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Vers.	<u>Drafted</u>	Reviewed	Typed	Proofed	Submitted	<u>Jacketed</u>	Required	
/?	mdsida 06/16/2001	jdyer 06/16/2001						
/1		jdyer 06/17/2001	jfrantze 06/16/20	01	lrb_docadmin 06/16/2001			
/2			jfrantze 06/17/20	01	lrb_docadmin 06/17/2001			
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SDC:	Keckhaver - C	CN1093,						
Topic:							-	
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06/16/2001 07:38:17 PM Page 2

FE Sent For:

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Instruction	ns:				
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	mdsida  Reviewed Typed Proof  Make Typed Proof	fed Submitted	Jacketed Required		

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<END>

From: Burnett, Douglas

Friday, June 08, 2001 3:57 PM Sent:

To:

Dsida, Michael

Cc: Weix, Branda; Keckhaver, John

RE: Enumeration requirement for prisons Subject:

Mike—I have talked to Chuck on this and he would like you to do an amendment for our senate superamendment to clarify that prisons that are built to confine another state's prisoners would also need to be enumerated preconstruction. That was the intent.

NIO93

I AM COPYING JOHN KECKHAVER AND BRANDA WEIX IN OUR CAUCUS ON THIS E-MAIL SO THEY CAN PUT A CAUCUS NUMBER ON THIS SO WE CAN TRACK IT PROPERLY AND GET IT COPIED TO THE LFB.

----Original Message-----

Fore Deca Michael

Wednesday, June 06, 2001 12:45 PM Sent:

Burnett, Douglas

To: Subject: Enumeration requirement for prisons

This morning, I looked at the motion that JCF adopted regarding the Stanley prison, and I realized that the amendment from which the motion's pre-construction enumeration requirement was drawn -- Assembly Amendment 2 to Assembly Bill 42 -- may not have accomplished everything that you wanted it to when you requested it. In setting forth the pre-construction enumeration requirement, the amendment defines a "correctional facility" as "a building, structure, or facility or portion thereof to be used to confine persons serving a sentence of imprisonment to the Wisconsin state prisons under ch. 973 or to confine juveniles alleged or found to be delinquent." That definition, however, does not cover prisons that are built to confine another state's prisoners. As a result, the bill might be interpreted to permit the construction, without enumeration, of a prison to be used to confine prisoners from other states.

Arguably, in view of the attorney general's opinion that private prisons may not house out-of-state prisoners in Wisconsin, that interpretation may be difficult to maintain. If the attorney general's opinion is correct, no prison constructed in Wisconsin can "be used" to confine prisoners from other states. Thus, it would be a risky business move for a developer to construct a prison here for housing out-of-state prisoners -- particularly in view of other factors (such as the state's tight labor market). As a result, it seems unlikely that a developer would attempt to construct any prison in Wisconsin without having it enumerated.

Nevertheless, you may want to consider amending AB 42 to specify that the preconstruction enumeration requirement applies to any prison, jail, house of correction, or lockup facility, regardless of who the developer intends to confine there. Among other things, that would guard against the possibility that the attorney general's opinion might not withstand a court challenge. (Although I appear to be in a distinct minority, I believe that, under the federal constitution's commerce clause, the state cannot prohibit private prisoners from being confined here.)

I apologize if the amendment does not reflect your intent. And if it does not, I would be happy to do whatever is necessary to address any problems that this might pose.

Mike Dsida Legislative Reference Bureau 608/266-9867



# State of Misconsin 2001 - 2002 **LEGISLATURE**

LRBb0810/4

LPS-Fix regulate myd.

SDC:.....Keckhaver - CN1093, Preconstruction enumeration requirement for prisons

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

### CAUCUS SENATE AMENDMENT

# TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

Substitue amenda

At the locations indicated, amend the (ii) as follows:

1. Page 7, line 7: delete lines 2 to 2 and substitute:

"(b) "Correctional facility" means a prison, jail, house of correction, or lockup

facility but does not include, an institution or facility, or a portion of an institution or

facility that is used solely to confine juveniles alleged or found to be delinquent under 5

ch. 48, 1993 stats., or ch. 938.".

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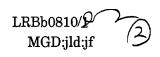
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(END)

but does not include a secured group home, as defined starting in 5. 938.02 (15p)



## State of Misconsin 2001 – 2002 LEGISLATURE



Low hold

SDC:.....Keckhaver - CN1093, Preconstruction enumeration requirement for prisons

FOR 2001-03 BUDGET -- NOT READY FOR INTRODUCTION

### CAUCUS SENATE AMENDMENT

### TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment as follows:

1. Page 1071, line 1: delete lines 1 to 4 and substitute:

"(b) "Correctional facility" means a prison, jail, house of correction, or lockup

facility an institution or facility, or a portion of an institution or facility, that is used

to confine juveniles alleged or found to be delinquent but does not include a secured

group home, as defined in s. 938.02 (15p).".

SDC:.....Keckhaver - CN1093, Preconstruction enumeration requirement for prisons

# FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION CAUCUS SENATE AMENDMENT TO SENATE SUBSTITUTE AMENDMENT 1, TO 2001 SENATE BILL 55

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- 1. Page 1071, line 1: delete lines 1 to 4 and substitute:
- "(b) "Correctional facility" means an institution or facility, or a portion of an institution or facility, that is used to confine juveniles alleged or found to be delinquent or a prison, jail, house of correction, or lockup facility but does not include a secured group home, as defined in s. 938.02 (15p)."

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(END)