

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 06/15/2001

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Senate Democratic Caucus

By/Representing: Keckhaver

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Addl. Drafters:

Subject: Correctional System - prisons

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

SDC:.....Keckhaver - CN5536,

Topic:

Delete prisoner litigation definition of correctional institution

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 06/16/2001	jdye 06/16/2001	kfollet 06/16/2001	_____	lrb_docadmin 06/16/2001		

FE Sent For:

<END>

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see - 0606

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1?	nelsorp1	1/6/18 JLD	KJ/6/16	KJ/SEH 6/16			

FE Sent For:

<END>

m-

Agency: Corrections

7029 - PG
5534 - 5160

caucus number 5536

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Delete Prisoner Litigation Definition of a correctional institution, item 11. Non-fiscal policy item.

other notes

Description2:

drafting instructions: The original version of this amendment that was sent over incorrectly listed Prisoner Litigation Definition of a correctional institution as Item 10. The amendment is for Prisoner Litigation but the Item number is 11.

more instructions:

Agency: Corrections

Number of Amendments: 1

~~AGD~~
RPN

GENERAL PROVISIONS

Motion to Delete Summary Items 6, 8, and 10

[RE: Summary Items]

Motion:

CN 5534

a) Delete Bifurcated Sentence Structure Modifications, Item 6.

This item was recommended for removal by the LFB. A bill has passed the Assembly and is currently in the Senate to make more substantive changes to the Truth in Sentencing Law. Legislative oversight is needed for this item.

b) Delete Club Drug Penalties, Item 8.

This item was recommended for removal by the LFB. This item dramatically increases penalties for so-called "club drugs". Another penalty enhancer which will create mandatory minimums for non-violent drug offenses should not be included in the biennial budget.

CN 5535

c) Delete Prisoner Litigation Definition of a Correctional Institution, Item 10.

This item was recommended for removal by the LFB. In a recent Wisconsin Court of Appeals case, State ex. rel. Speener v. Gudmanson, it was determined that the current definition of "correctional institution" related to prisoner litigation does not include an out-of-state jail. As a result of that decision, persons in the custody of Corrections and placed in a jail or prison that is located outside of Wisconsin are not subject to the requirements of the laws related to prisoner litigation. This provision would modify the definition of correctional institution to include out-of-state prisons so that prisoners held in CCA facilities are also subject to Wisconsin's prisoner litigation laws. CCA prisons are not subject to the same rules and regulations as Wisconsin prisons. Wisconsin prisoners, therefore, should not be prohibited from bringing suit against CCA in the manner proposed. At the very least, this provision should not be taken up in the context of the biennial budget bill.

CN 5536

Agency: Corrections

caucus number 5536

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more instructions:

Agency: **Corrections**

Number of Amendments: 1

~~AGD~~ RPN

DOA:.....Steinmetz – Definition of “correctional institution” for prisoner litigation

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

ADULT CORRECTIONAL SYSTEM

Under current law, as interpreted in *State ex rel. Speener v. Gudmanson*, 234 Wis. 461 (2000), the definition of “correctional institution” for purposes of the prisoner litigation reform legislation, 1997 Wisconsin Act 133, does not include an out-of-state jail. As a result of that decision, the provisions of that legislation that place specific duties and limits on prisoners who want to begin actions based on prison or jail conditions do not apply to persons who are in the custody of DOC and placed in a jail or prison that is located outside of this state. This bill overrides that decision by defining a “prisoner” for purposes of prison litigation to include any person who is incarcerated, imprisoned, or otherwise detained and who is in the custody of the department of corrections or of the sheriff, superintendent, or other keeper of a jail or house of corrections. All persons who are placed in a jail or prison outside this state by DOC are in the custody of DOC.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

✓ 1 SECTION 1. 801.02 (7) (a) 1. of the statutes is repealed.

✓ 2 SECTION 2. 801.02 (7) (a) 2. (intro.) of the statutes is amended to read:

3 801.02 (7) (a) 2. (intro.) "Prisoner" means any person who is incarcerated,
4 imprisoned, or otherwise detained ~~in a correctional institution or~~ and who is in the
5 custody of the department of corrections or of the sheriff, superintendent, or other
6 keeper of a jail or house of corrections or any person who is arrested or otherwise
7 detained by a law enforcement officer. "Prisoner" does not include any of the
8 following:

✓ 9 SECTION 3. 813.02 (1) (c) 1. of the statutes is amended to read:

10 813.02 (1) (c) 1. The court may not issue the injunction until giving notice and
11 an opportunity to be heard on the request for a preliminary injunction to the attorney
12 general, if the case involves a prisoner ~~in a state correctional institution, as defined~~
13 ~~in s. 801.02 (7) (a) 1. the custody of the department of corrections,~~ or to the attorney
14 representing the local correctional institution involved and to all other interested
15 parties. Any injunction issued without giving notice and an opportunity to be heard
16 is void.

17 (END)

2001

Date (time) needed _____

LRB b 088711

AMDT TO BUDGET SUB AMDT

RPN: JL

LPS - Fix request sheet

See form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT
~~TO SENATE AMENDMENT~~
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

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

#. Page 1205, line 14: [✓] delete lines 14 to 21.

#. Page 1206, line 5: [✓] delete lines 5 to 12.

~~#. Page, line~~

(End)

#. Page, line

#. Page, line

#. Page, line

SDC:.....Keckhaver – CN5536, Delete prisoner litigation definition of
correctional institution

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1205, line 14: delete lines 14 to 21.

3 **2.** Page 1206, line 5: delete lines 5 to 12.

4 (END)