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☞ **MICAH (Milwaukee Inner-City Congregations Allied for Hope)**

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2001-02**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on ... Corrections and Courts (AC-CC)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

## Gilbert, Melissa

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**From:** Grosshans, William J. DOC  
**Sent:** Tuesday, January 22, 2002 9:14 AM  
**To:** Gilbert, Melissa  
**Subject:** RE: WISDOM and MICAH Event on January 22

If offenders have an AODA (alcohol or other drug abuse) problem or the offender was under the influence at the time the crime was committed, the courts often times order a drug evaluation followed by treatment. The probation and parole agents also order such action on the part of the offender. However, the real issue is the availability of AODA evaluation and treatment for offenders. When an offender has the fiscal means to pay or has insurance from an employer, they pay. When an offender is indigent or without insurance there are state funds through s.51 of the Wis. Statutes to provide these types of services (administred through the DHFS, but operated by the county in their respective Dept.'s of Social Services). Some counties recognize probationers and parolees as county citizens and, therefore, eligible to receive these funds. In other counties probationers and parolees are seen as "State" clientele and, therefore, should be provided the funds by the state. In Milwaukee County probationers and parolees have traditionally had a difficult time accessing these funds, when county budget issues arise. Also, the DOC has some purchase of services (POS) funding for offenders to purchase programming for offenders, including halfway houses, transitional living beds, sex offender programming and AODA services. It is not sufficient to meet all the offender needs.

-----Original Message-----

**From:** Gilbert, Melissa  
**Sent:** Wednesday, January 16, 2002 3:50 PM  
**To:** Grosshans, William J. DOC  
**Subject:** FW: WISDOM and MICAH Event on January 22

Hey Bill,

Aren't people convicted of drug possession generally sentenced by the courts or required by their P&P agents to undergo drug treatment now? Just trying to figure how exactly this proposal would impact the current system.

Thanks!  
Missy

-----Original Message-----

**From:** McGrorty, Megan  
**Sent:** Wednesday, January 16, 2002 2:35 PM  
**To:** \*Legislative All Assembly; \*Legislative All Senate  
**Subject:** WISDOM and MICAH Event on January 22

Attention legislators and staff:

Next Tuesday, January 22nd from 8:30-10am in the Senate Parlor leaders of the Faith Community of Southeast Wisconsin will host an informational presentation on behalf of legislation to provide mandated drug treatment for persons convicted of simple drug possession offenses where no violence is present. We encourage all of you to attend.

Senator George is leading the effort to draft this legislation and welcomes you to this informative presentation.

For planning purposes please respond to this e mail if you plan to attend, but it is not necessary to sign up in order to attend.

Megan McGrorty  
Staff of Senator Gary R. George



## Gilbert, Melissa

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**From:** Mark Wehrly [mwehrly@wccf.org]  
**Sent:** Tuesday, January 22, 2002 2:40 PM  
**To:** Conference Group  
**Subject:** Conference Follow-Up Policy Meeting Invitation--RSVP

Hello!

The conference last week on Promising Practices in Criminal Justice was a big success. This is to invite you or a designee to the follow-up policy planning meeting that is an integral part of our goals. The meeting will be on February 20, from 10 a.m.-3 p.m. This meeting, which will be held at the Country Inn Hotel in Pewaukee, will bring together individuals at a policy level representing key constituencies to address the issues that were raised by the conference. The goal of this full-day, facilitated meeting is to see whether we can develop consensus around a set of policy initiatives that will improve the way the criminal justice system responds to individuals with mental illness and substance abuse disorders or provides alternatives to incarceration. Obviously, there will be constraints around money and potentially conflicting goals among the various constituents. I believe many of us came away from the conference, however, with optimism that there is common ground on many key issues. At this time we would like to know if you think you will be able to attend. We will send a formal invitation and agenda in a few weeks. If you cannot, please let us know other individuals we might contact from your organization or related organizations who might be able to assist us in this process. We are limiting the invitations to 20 individuals representing adult services and 20 on the juvenile side, so there will necessarily be a limit on the number attending from each agency. In some cases I've sent this email to a couple people per agency, and would ask you to let me know who is available and appropriate for the meeting. Some of you receiving this may be involved with both sides, and should indicate in your reply your preference. If you want to consult the conference agenda from last week, it is online at [www.wccf.org/conference.html](http://www.wccf.org/conference.html). Thanks, and I hope to hear from you soon.

Mark Wehrly  
Wisconsin Council on Children & Families  
16 N. Carroll, Suite 600  
Madison, WI 53703  
Tel. 608/284-0580 ext. 308  
Fax 608/284-0583  
email: [mwehrly@wccf.org](mailto:mwehrly@wccf.org)  
<http://www.wccf.org/budget.html>



FEB 12 2002



"For these are all our children . . .  
we will all profit by, or pay for,  
whatever they become." James Baldwin

RESEARCH • EDUCATION • ADVOCACY

February 6, 2002

Melissa Gilbert  
Office of Rep. Scott Walker  
PO Box 8953  
Madison, WI, 53708-8953

Re: February 20 Corrections Policy Planning Meeting

Dear Ms. Gilbert:

Thank you for your expression of interest in the policy planning follow up meeting to our successful January 16-17 conference on Promising Practices in Criminal Justice.

This letter is to formally invite you to attend the meeting on February 20 from 10 am to 3 pm at the Country Inn Hotel in Pewaukee. Lunch will be provided. If you prefer a vegetarian meal or other accommodations please indicate below and fax to me at (608) 284-0583. Included are directions to the hotel, a map of the hotel directing you to the meeting area, as well as a list of prospective participants.

A continental breakfast will be available at 9:30. You have been assigned tentatively to the Adult or Juvenile discussion panel, so should come to the room for that group (see list and hotel map). At 10:00 each group will begin with a short orientation followed by a facilitated discussion of policy issues that respond to individuals with mental health and/or substance abuse disorders and alternatives to incarceration. Our goal is for the participants, representing a cross section of sectors within the systems, to develop consensus around a set of policy initiatives for near and longer terms. At the end of the day, the groups will combine and review progress and next steps. Next week, I will send a list of policy ideas that were culled from participants at the conference, and ask you to reply with priority items you would add. We hope that you will come prepared to advocate for the top priorities of your agency or constituency, to assist with follow-up on those key issues, and to advocate within your constituency to support the consensus findings.

If you have questions or concerns, feel free to contact me by phone (608) 284-0580 ext. 308 or email at [mwehrly@wccf.org](mailto:mwehrly@wccf.org). We look forward to your participation in this important event.

Very truly yours,

Mark Wehrly



A MEMBER OF THE NATIONAL ASSOCIATION OF CHILD ADVOCATES

Promising Practices in Mental Health And Substance Abuse Services in Criminal Justice: Policy Planning Forum Participants

Name	Title	Organization	Phone	Email
<b>ADULT Group</b>				
Joanne Berman	Clinical Consultant Senior Government Relations Coordinator	DHFS Bureau of Community Mental Health	(608) 261-6760	bermajk@dhfs.state.wi.us
Jenny Boese	Executive Director	State Bar of Wisconsin	(608) 250-6045	jboese@wisbar.org
Molly Cisco	Staff Aide	Grassroots Empowerment Project	(414) 454-0221	mollycisco@msn.com
Lisa Davidson	Executive Director	Senator Panzer's Office	(608) 266-7513	lisa.davidson@legis.state.wi.us
Marilyn Duguid	Executive Director	WAAODA	(608) 223-3355	waadata@inxpress.net
Francine Feinberg	Executive Director	META House	(414) 962-1200	francine@naspa.net
Melissa Gilbert	Staff Aide	Rep. Scott Walker's Office	(608) 266-9180	Melissa.Gilbert@legis.state.wi.us
Helen Geyso	Forensic Advocate	NAMI	(262) 859-2524	hmgeyso@yahoo.com
Diane Greenley	Managing Attorney	Wisconsin Coalition for Advocacy	(608) 267-0214	dgreenley@w-c-a.org
Oren Hammes	Criminal Justice/Clinical Coordinator Director of Children, Youth, & Family Services	DHFS Bureau of Substance Abuse Services	(608) 266-3145	HAMMEOP@dhfs.state.wi.us
Ron Hauser	Executive Director	LSS South Inland Region	(920) 887-3172	rhauser@lsswis.org
Karen Kinsey	Organizer	ARC	(608) 278-2300	kkinsey@arccommserve.com
David Liners	Grants Program Manager	MICAH/WISDOM	(414) 449-0805	davidl@micahempowers.org
Ray Luick	Executive Director	WI Office of Justice Assistance	(608) 266-7282	ray.luick@oja.state.wi.us
Terry Marshall	Director of Human Resources Policy	ATTIC Correctional Services	(608) 223-0017	acs01@chorus.net
John Metcalf	Manager	Wisconsin Manufacturers and Commerce	(608) 258-3400	jmetcalf@wmc.org
Rod Miller	President	DHFS Division of Care Treatment Facilities Wisconsin Federation of Nurses & Health Professionals	(608) 266-2715	millerk@dhfs.state.wi.us
Candice Owley	SCAODA Planner	Bureau of Substance Abuse Services	4144756065	cowleyfnhp@aol.com
Valerie Payne	Director of Wisconsin Budget Project	Wisconsin Council on Children & Families	(608) 267-7707	paynevk@dhfs.state.wi.us
Jon Peacock	Senior Policy Analyst	Wisconsin Council on Children & Families	(608) 284-0580x307	jpeacock@wccf.org
Mark Wehrly	Board Member/Chair	WCMH,NAMI,WI Coalition for Advocacy	(608) 284-0580x308	mwehrly@wccf.org
John Quaal	Chair	Task Force on Money, Education and Prisons (MEP)	(262) 695-4051	johnquaal@msn.com
Barb Rowe	AODA Coordinator	Kewaunee County Dept. of Human Services	(608) 849-5998	browe@itis.com
Mark Seidl	Executive Director	Wisconsin Correctional Services	(920) 487-5231	seidlm@kewauneeeco.org
Steve Swigart	Acting Community Justice Program Director	Wisconsin Correctional Services	(414) 290-0420	sswigart@wiscons.org
Marilyn Walczak	WCCF Board Member	Benedict Director	(414) 347-1774	mwalczak@benedictcenter.org
Marcus White	Staff Attorney	Milwaukee Interfaith Council	(414) 276-9050	marcuswhite@aol.com
Todd Winstrom	Chief Attorney	Wisconsin Coalition for Advocacy	(608) 267-0214	toddw@w-c-a.org
David Zerwick	Administrator	State Public Defender	(414) 266-1191	zerwickd@aopd.state.wi.us
Steven Casperson	Administrator	DOC Division of Adult Institutions	(608) 240-1500	
William J. Grosshans	Administrator	DOC Division of Community Corrections	(608) 240-5304	

**Promising Practices in Mental Health And Substance Abuse Services in Criminal Justice: Policy Planning Forum Participants**

<b>Name</b>	<b>Title</b>	<b>Organization</b>	<b>Phone</b>	<b>Email</b>
<b>JUVENILE Group</b>				
Anne Arnesen	Executive Director	Wisconsin Council on Children & Families	(608) 284-0580x310	aarnesen@facstaff.wisc.edu
Kerrie Kaner Bischoff	Juvenile Justice Coordinator	Office of Justice Assistance	(608) 266-7639	kerrie.kaner@oja.state.wi.us
Casey Behrend	Juvenile Justice & Delinquency Prevention Act Program Specialist	Community Adolescent Programs	(608) 245-2550	casey.behrend@capworks.org
Jennifer Bias	Community Justice Initiatives Director	State Public Defender	(414) 227-2220	biasj@mail.opd.state.wi.us
Judi Bradshaw-Rouse	Information Referral Coordinator	Wisconsin Family Ties	(608) 261-6888	judi@inxpress.net
Lauren Brown Perry	Congregation/Community Coordinator	Madison Urban Ministries	(608) 256-0906	lauren@emum.org
Michael DeMares	Manager	Waukesha DHHS Clinical Services Division	(608) 548-7666	mdemares@waukeshacounty.gov
Susan Dreyfus	Administrator	DHFS Office of Children, Youth, & Families	(608) 267-3905	DREYFSN@dhfs.state.wi.us
Katherine Franke	Systems Change Coordinator	Wisconsin Family Ties	(262) 646-4455	jalasfranke@aol.com
Phyllis Greenburger	Disability Advocate	Wisconsin Coalition for Advocacy	(608) 267-0214	phyllis@w-c-a.org
Linda Hall	Facilitator	Wisconsin Association of Family and Children's Agencies	(608) 257-5939	lindahall@ggdi.net
George Hulick	Clinical Consultant	DHFS Bureau of Community Mental Health	(608) 266-0907	hulicgh@dhfs.state.wi.us
Bruce Kamradt	Executive Director	Wraparound Milwaukee	(414) 257-7531	bkamrad@wrapmilw.org
Kit Kerschensteiner	Managing Attorney Mental Health	Wisconsin Coalition for Advocacy	(608) 267-0214	kitk@w-c-a.org
Gretchen Lord				
Anderson	Associate Director	Wisconsin Council of Churches	(608) 837-3108	glanderson@wichurches.org
Kathleen Malone	Division Manager Court and Delinquency Services	Milwaukee County Jail	(414) 257-7704	kmalone@milwcnty.com
Lisa Maroney	Governmental Relations Specialist	Wisconsin Council on Children & Families	(608) 284-0580x315	lmaroney@wccf.org
Gloria Marquardt	Policy Specialist	DOC Division of Juvenile Corrections	(608) 240-9244	gloria.marquardt@doc.state.wi.us
Mary Jo Meyers	Associate Director	Wraparound Milwaukee	(414) 427-0476	mmeyers@wrapmilw.org
Dennis Nuenfeldt	Director of Residential Services	Ladlake Inc.	(262) 965-9457	dennisnuenfeldt@ladlake.com
Gordon Owley	Outpatient Coordinator	Waukesha DHHS AODA/Mental Health	(262) 548-7666	gowley@waukeshacounty.gov
Martha Rasmus	President & CEO	Mental Health Association in Milw. Co.	(414) 276-3122	mha@mhamilw.org
Mike Thompson	Director, Student Services Prevention Wellness	Department of Public Instruction	(608) 266-3584	michael.thompson@dpi.state.wi.us
Fred Umland	Juvenile Court Intake Worker	WI Juvenile Court Intake Association	(920) 236-4965	fumland@co.winnebago.wi.us
Lindsey Draper	Judicial Court Commissioner	Milwaukee County	(414) 257-7961	Lindsey.Draper@milwaukee.courts.stat
John Ross	Chair	Governor's Juvenile Justice Commission	(608) 266-7639	e.wi.us
Mary Anne Snyder	Program Manager	Children's Trust Fund	(608) 266-3737	rossdona@chorus.net
				maryanne.snyder@ctf.state.wi.us

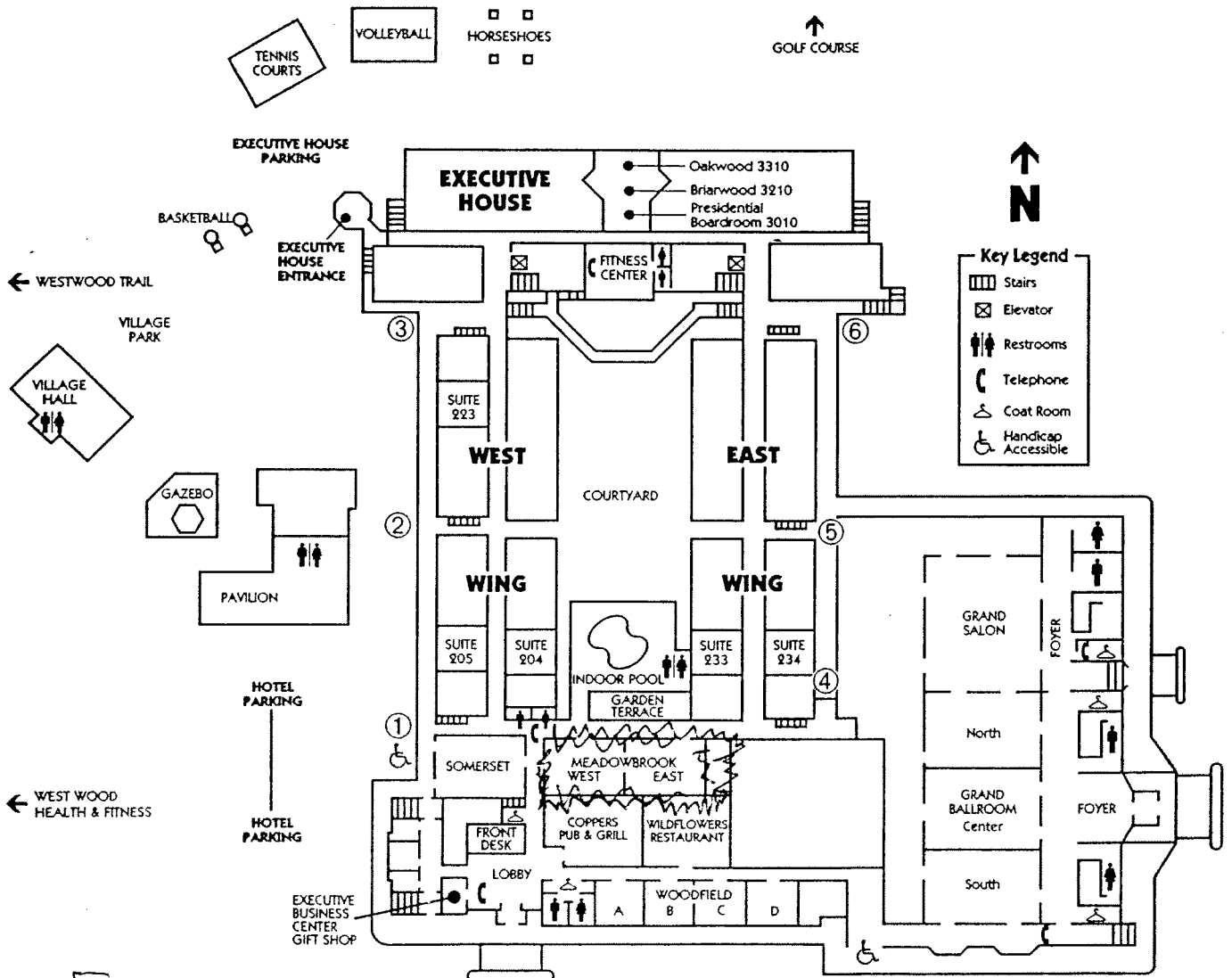




# Country Inn Hotel

CONFERENCE CENTER

## Hotel Layout

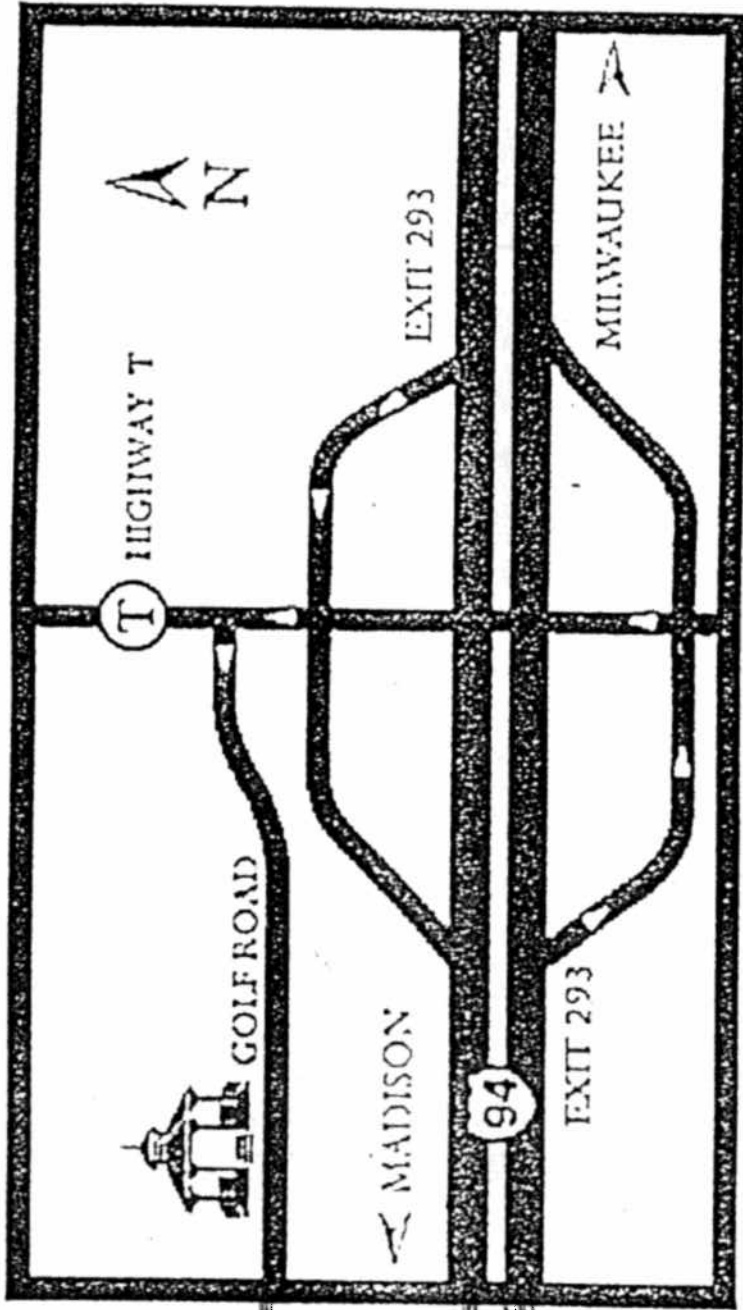


*Parking* ↗

*enter* ↑ Meadowbrook West - Adult  
Meadowbrook East - Juvenile → *Parking*

↓ ← I-94 → ↓

exit 292





## **Gilbert, Melissa**

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**From:** Mark Wehrly [mwehrly@wccf.org]  
**Sent:** Tuesday, February 12, 2002 9:08 AM  
**To:** Conference Group  
**Subject:** Speakers needed for June conference

**Contacts:** Al Feist; Andy Treharne; Angie Wareham; Anne Cattarello; Annie Anniakudo, Ph.D.; Barb Andrew; Barb DeMarco; Barbara Johnson; Barbara Vedder; Barry Blackwell; Beth Lewis; Bev Gudex; Bill Bull; Binky Krahn; Blumer, Craig A.; Bob Beilman; Bob Carpenter; Bob Sperling; Bobby Peterson; Bradley McCallum; Bruce Kamradt; Caitlen Daniels; Carolyn Stanford Taylor; Casey Behrend; Cathy Blanchard; Celesta Green; Charlene Benford; Cheri French; Cheri Kainz; Christine M. Apple; Collie Brown; Commlink; Connie O'Heron; Dan Naylor; Dan Shears; Dave Morissette; Dave Zerwick; David Altschuler; David C. Rohlfing; David Johns; David Liners; Deb Augustyn; Debbie Allness; Dennis Neuenfeldt; Diane Greenley; Diane Phillips; Don Coleman; Donna Kahl; Donna Wrenn; Dr. Bill Buzogany; Dr. Bill Knoedler; Dr. David Mays; Dr. Deb Umstead; Dr. Gerald Thomas; Dr. Jerry Folk; Dr. Mike Caldwell; Dr. Randy Cullen; Duncan Shrout; Elizabeth Vermilyea; Eric Hartwig, Ph.D.; Eric Schulenburg; Francine Feinberg; Fred Umland; Gary Field, Ph.D.; George Brown; George Hulick; Gerhard Fischer; Gretchen Lord Anderson; Helen Geyso; Jackie McRae; Jan Devor; Janice Balistreri; Jean Leisen-Bondoc; Jeff Spitzer-Resnick; Jenn Sennick; Jennifer Bias; Jennifer Moran; Jenny Boese; Jill Fuller; Joanne Berman; John Metcalf; John Quaal; Joyce Henry; Jsilberberg@Worldnet.Att.Net; Judith Bradshaw-Rouse; Judy Greenspan; Karen Berendes; Karen Kinsey; Karen Robison; Karen Wydeven; Kathryn Franke; Kathy Gourdine; Kathy Malone; Kathy Wuest; Keith Lang; Kellianne O'Brien; Kimm Hurley-Smith; Kit Kerschensteiner; Kristi Swendrzynski; Lalk, Sue; Laura Flood; Laura Fuller; Laurie Boyce; Leslie McAllister; Lila Schmidt; Lili Garfinkel; Linda Caldart-Olson; Lindsey D Draper; Lisa Davidson; Lucia Nunez; Luciano Matheron; Lynn Burgess; Marc Dannecker; Marc Herstand; Margaret Jefferson; Mark Sanders; Mark Warichak; Marty Ordinans; Mary Gulbrandsen; Mary Jo Meyers; Mary Macht; Melissa Gilbert; Meredith Ross; Meyers, Peggy A. DOC; Michael Blumenfeld; Michael DeMares; Michael Dwyer; Mike Thompson; Mike Tiber; Molly Cisco; Molly Regan; Nancy Marz; Nic Dibble; Nikki Migas; Paulette Romasko; Peter Slesar; Phyllis Greenburger; Prof. Roger Williams; Pruski, Gina; Randi Celusta; Ray Dallosto; Rebecca Cohen; Robert Duea; Robert Mattice; Robyn Saviano; Rod Miller; Ron Hauser; Rose Stietz; Sally Tess; Sam Marjanov; Sarah Bowen; Scott Henggeler; Scott Kivimaki; Sharyl Kato-Nilsen; Shel Gross; Silvia Jackson; Sinnikka McCabe; Stephen Blue; Steve Fernan; Steve Gilbertson; Steve Gustafson; Steve Hartley; Steve Obershaw; Steve Swigart; Sue Bakke; Sue Conwell; Sue Pleskac; Susan Connors; Suzanne Schmitt; Ted Garlewski; Terry Kupers; Terry Marshall; Todd Winstrom; Valerie Payne

Hello all-

Thanks for your participation in our successful conference on mental illness and substance abuse issues in corrections, which was a huge success, and has already seen some sprouts of collaboration from the seeds we have sown.

Some of our number are involved in planning a conference in early June in Oshkosh to be sponsored by the Chancellors of the UW System, on the subject of alternatives to incarceration. I'll notify you when there is more info on time and place, but in the meantime we're looking for ideas for speakers. They are looking for "cutting edge theory, research and practice on the law, best practices in prevention, intervention, diversion and aftercare." The audience will be the usual suspects (us!) as well as legislators, policy makers, etc.

If you can recommend speakers, both national and Wisconsin, (including yourself!), please let me know. The tentative date is June 4.

Mark Wehrly

Wisconsin Council on Children & Families  
16 N. Carroll, Suite 600  
Madison, WI 53703  
Tel. 608/284-0580 ext. 308  
Fax 608/284-0583  
email: [mwehrly@wccf.org](mailto:mwehrly@wccf.org)  
<http://www.wccf.org/budget.html>



**Gilbert, Melissa**

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**From:** Mark Wehrly [mwehrly@wccf.org]  
**Sent:** Friday, February 15, 2002 1:54 PM  
**To:** Conference Group  
**Subject:** Feb 20 policy planning meeting --please review and reply

Hello all--

I have attached (and provided a weblink below for) the lists of policy issues that we have collected for discussion at our meeting on February 20, and a revised participant list.

1. Note that there are two lists, one for adult and one for juvenile. The starting point for the lists was the survey responses from the conference. If you have trouble with the attachments, you can find them online by copying these URLs and inserting them in your web browser:

adult issues list: <http://www.wccf.org/adult.htm>

juvenile issues list: <http://www.wccf.org/juve.htm>

participant list: <http://www.wccf.org/partlist.htm>

2. Please review at least the list for the discussion group (juvenile or adult) to which you have been assigned (you are of course welcome to comment on both lists). We are particularly interested in knowing of any glaring missing items that you would like added to the discussion. Please reply to me no later than noon Tuesday with such items or other comments.

3. The facilitators have asked you to review the policy list and prior to the meeting identify your top five priorities (including items you have added). When selecting priority items, items should be considered in light whether they: 1) will make the greatest difference in moving the system to being more responsive to the mental health/substance abuse needs; and 2) are feasible (real change can reasonably be expected if interested people work together on it). At the meeting we will start by collating the priorities and then break into smaller groups to refine issues by category.

4. One other reminder--if you want a vegetarian lunch, please reply to mwehrly@wccf.org (we are having grilled chicken). There will be a continental breakfast and fruit available at 9:30.

Thanks and see you there! Mark Wehrly 608/284-0580 ext 308





02-22-02

## LRB-4037/P2-Relating to Drug Treatment

LRB-4037/P2 would require the courts to place non-violent drug offenders who violate specific drug possession statutes, on probation. These offenders could not be sentenced to prison or jail. This proposal would also allow the courts to order the State (generally the Department of Corrections) to provide treatment to those offenders. While the Department of Corrections (DOC) supports offender treatment, the DOC has concerns about the fiscal impact of this bill. We do not support allowing courts to mandate treatment expenditures upon the State. A more workable option would be allowing courts to order counties to provide treatment to offenders through the 51.42 system.

In FY01, 2,532 offenders were placed in prison or on probation due to violating the statutes outlined in this proposal. Of those offenders, 67 were a new admission and a new sentence into the prison system, while 2,465 were placed on probation.

In calculating the fiscal impact on DOC in this proposal, certain assumptions were made.

- The FY01 admissions are representative of future statistics.
- The average cost of an assessment is \$63.
- The court will require that every offender complete assessment and some type of treatment or education.
- The cost for an offender to complete an outpatient AODA group therapy program is \$154.
- The cost to house an offender in a halfway house is \$66 a day.
- The average stay in a halfway house is 90 days.
- It is assumed that 75% of the offenders will be treated in a group and 25% in a halfway house.

Based on these assumptions, this proposal could have an annual fiscal impact of up to \$4,212,000 for DOC. It should be noted that offenders would be responsible for paying for treatment if they have sufficient financial resources. For the purposes of this analysis, it is assumed that offenders will not have the financial resources to fund the mandated treatment. It also should be noted that some of the offenders may currently receive treatment. Without additional resources, DOC could not fulfill the requirements of this proposal.

This proposal also has a number of policy implications.

- If the court imposes mandated treatment, available treatment slots will be used for mandated cases rather than cases most in need as identified by DOC.

- Mandated and unfunded AODA treatment will take resources from other treatment programs and services (i.e. sex offender treatment, education, vocational, etc.).
- The proposal relies on available AODA treatment information being made available to the sentencing court at the time of sentencing. For example, one of the exceptions to mandatory probation is for persons who have previously been convicted of a nonviolent drug offense, been provided drug treatment or drug education in connection to the conviction, and are found by the sentencing court to be unamenable to treatment or education. The court may not have access to previous treatment history to make this determination.
- Another exception to mandatory probation is granted if “the person is convicted of another crime other than a nonviolent drug offense in the same proceeding.” However, this does not take into account that some offenders have multiple cases pending in multiple counties or in multiple courts.
- DOC discretion must not be restricted on whether to proceed with revocation for violations of supervision; otherwise it will be more difficult to supervise an offender.
- In order to proceed with revocation, the draft states a hearing examiner must find “by clear and convincing evidence that the person is unamenable to treatment or *is a danger to himself or herself or to others.*” In current revocation procedures, the DOC’s burden of proof is *preponderance of evidence*, which is a lesser burden. We do not support changing the current standards for revocation proceedings; they must be retained for purposes of public safety.

**Prepared by: Department of Corrections: February 22, 2002.**



To: All Legislators

From: Sen. Gary George

Date: Wednesday, March 6, 2002

Re: Co-sponsorship of LRB 4037/2, relating to: probation and treatment for persons convicted of possession of certain controlled substances or certain other crimes, etc.

**This is the "Treatment Instead of Prison" or "TIP" bill that would require that persons convicted of nonviolent drug possession offenses be placed on probation and ordered to participate in drug treatment unless certain exceptions apply.**

Please find the LRB analysis below. If you would like to co-sponsor this bill, please call Sen. George's office at 266-2500 by Monday, March 11, 2002 at 5:00 PM.

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*Analysis by the Legislative Reference Bureau*

*Penalties for drug possession offenses*

1. *Current law penalties for drug possession offenses.* Current law prohibits possession of various controlled substances. The maximum penalties for possession of these controlled substances vary from a fine not to exceed \$500 or imprisonment for not more than 30 days or both to a fine not to exceed \$5,000 or imprisonment for not more than two years or both. The greater penalties are for possession of narcotic drugs or certain nonnarcotic drugs including, methamphetamine, ketamine, and flunitrazepam. For possession of many controlled substances, the maximum penalty is greater for a second or subsequent conviction.

Current law provides that a court may allow a person who is convicted for possession of a controlled substance to participate in treatment for drug dependency as an alternative to sentencing if the offender volunteers to participate in treatment and if a treatment facility agrees to provide treatment. The treatment is for the period of time deemed necessary by the treatment facility, but may not exceed the maximum possible sentence length for the possession offense unless the offender consents to a longer term. At the end of the treatment period, the court may waive sentencing for the drug possession offense. However, if treatment is ineffective or if the offender does not comply with treatment, the court may sentence the person for the drug possession offense.

If a person is convicted for possession of heroin, cocaine, or certain hallucinogens or stimulants, including lysergic acid diethylamide (LSD), phencyclidine (PCP), or methamphetamine, the sentencing court must order that

the offender submit to an assessment of the offender's drug dependence to determine whether the offender is appropriate for treatment. The county department that is responsible for providing drug treatment services is responsible for providing the assessment, though the offender is required to pay a fee for the assessment.

Conditional discharge is another alternative to sentencing for conviction of a drug possession offense. If a person has no prior drug-related convictions and pleads guilty or is found guilty of a possession offense for which the maximum penalty is a fine of not more than \$500 or imprisonment for not more than 30 days or both, and the person successfully completes probation for the offense, the court may discharge the person's sentence without creating a record of conviction.

This bill repeals both the voluntary treatment alternative to sentencing and the conditional discharge alternative.

*2. Eligibility for probation and drug treatment for nonviolent drug possession offenses.* This bill requires that, if a person is convicted of a nonviolent drug possession offense, the person be placed on probation and ordered to participate in drug use intervention services as a condition of that probation, unless certain exceptions apply. The bill defines a "nonviolent drug possession offense" as possession or attempted possession of a controlled substance, except a so-called "date-rape drug," or possession or attempted possession of drug paraphernalia that is used for taking drugs (drug paraphernalia for personal use). If any of the following exceptions applies, the sentencing court is not required to place a nonviolent drug possession offender on probation or order drug use intervention services for that offender:

- a. The person has been convicted of, or served a sentence for, a serious felony (the so-called "three strikes" felonies) at any time during the five years prior to committing the nonviolent drug possession offense.
- b. The person is convicted in the same proceeding of a crime other than a nonviolent drug possession offense, or is found to have violated a prohibition against drunk driving for the same act or incident that led to conviction for the nonviolent drug possession offense.
- c. The person was incarcerated at the time he or she committed the nonviolent drug possession offense.
- d. The person has previously been provided drug use intervention services in connection with a conviction for a nonviolent drug possession offense or while on parole or extended supervision and the court finds by clear and convincing evidence that the person is unamenable to treatment.
- e. The person refuses to participate in drug use intervention services.

In addition, if a person is convicted in the same proceeding of a misdemeanor that is not a crime against life or bodily security, a crime against children, or a crime involving a firearm and the court finds that the person's drug dependence significantly contributed to the commission of that misdemeanor, the court must place the person on probation for that misdemeanor as well. However, if the court does not find that drug dependence significantly contributed to commission of the misdemeanor, the court may sentence the person for the misdemeanor and order that

the person serve probation for the nonviolent drug possession offense either concurrently with the sentence for the misdemeanor, or after serving the sentence for the misdemeanor.

The bill provides that a sentencing court may order an offender to undergo an assessment of his or her drug dependence before determining a disposition or sentence for the offender. Any assessments ordered by the court must be completed by a provider who is certified by the department of health and family services (DHFS) to conduct assessments of drug dependence.

3. *Drug use intervention services.* Under the bill, the department of corrections (DOC) must arrange for the provision of any drug use intervention services ordered by the court. Drug use intervention services ordered by the court may consist of drug treatment (including hospitalization, inpatient or outpatient treatment, detoxification, narcotic replacement therapy, transitional residential treatment, or day treatment), drug education, or any other service intended to address a person's drug dependence or drug use. The bill requires that drug treatment services be provided by a certified treatment provider, and requires that DHFS promulgate rules prescribing the standards for drug education ordered as a component of drug use intervention services. If the nonviolent drug possession offender is a medical assistance (MA) or badger care recipient, DOC is required to arrange for a certified MA provider to furnish any court-ordered service that is covered by MA or badger care, as long as such a provider is available. The bill permits DOC to contract with counties to provide the required drug use intervention services.

A court may order drug use intervention services for up to 12 months, or for the length of the probation period, whichever is less. Thirty days before the expiration of a probationer's drug use intervention services, the provider of the services must submit a report to the court recommending whether the person should receive aftercare services. The court may modify the person's probation to require up to six months of aftercare.

4. *Violation of a condition of probation.* Under the bill, if a person on probation for a nonviolent drug possession offense violates a condition of probation that is related to drug use intervention services or if the person commits another nonviolent drug possession offense, the conditions of the person's probation may be modified, but the person's probation may not be revoked unless a hearing examiner or DOC, if the person waives a hearing, finds by clear and convincing evidence that the person is a danger to himself, herself, or others or that the person is unamenable to treatment. The bill provides that a person is unamenable to treatment if the person has repeatedly committed serious violations of service program rules that inhibit the person's ability to function in services; the person has continually refused to participate in services; or the person has asked to be removed from services. If a person violates a condition of probation that is not related to drug use intervention services or a nonviolent drug possession offense, the probation may be revoked.

5. *Expunging the record of a nonviolent drug possession offense.* The bill

provides that, if a person successfully completes probation for a nonviolent drug possession offense or a misdemeanor for which the offender's drug dependence was a significant contributing factor, without revocation, the record of the conviction is expunged and the offense for which the person served probation cannot be counted as a prior conviction for subsequent penalty enhancers or for other disabilities or disqualifications related to convictions.

6. *Discretionary treatment.* The bill also grants courts discretion to order DOC to provide drug use intervention services to a person who is convicted of any crime other than a crime against life or bodily security, a crime against children, or a crime involving a firearm, if the sentencing court finds that the person is drug dependent. The court may require that DOC provide drug use intervention services to such a person while he or she is in prison, jail, or otherwise confined, or while the person is on extended supervision or probation.

7. *Payment for services.* Under the bill, a court must order a recipient of an assessment or drug use intervention services to pay, to the extent of his or her ability, for those services that are not covered by private insurance or MA or badger care. DOC must pay for those services that are not covered by insurance, MA, or badger care or paid for by the recipient.

### ***Parole and extended supervision***

Under current law, a person on parole must comply with a standard set of conditions of parole, including that the person may not commit any crimes. (A person released from prison to supervision under a sentence for a crime committed before December 31, 1999 is placed on parole.) If a parolee violates a condition of parole, for example by committing a crime, the person's parole may be revoked and the person may be returned to prison.

Similarly, a person on extended supervision must comply with conditions of extended supervision. (A person released from prison to supervision under a sentence for a crime committed on or after December 31, 1999, is released to extended supervision.) Conditions of extended supervision are set by the sentencing court and DOC, and may include individualized requirements, such as participation in drug treatment. If a person violates a condition of extended supervision, the person's extended supervision may be revoked and the person may be returned to prison.

The bill provides that, if a person on parole or extended supervision commits a nonviolent drug possession offense, or if a person on extended supervision commits a violation of a condition related to drug treatment, the person's parole or extended supervision, whichever is applicable, may not be revoked for the violation unless one of the following circumstances apply:

a. In the five years prior to the violation, the person either committed or was serving a sentence for a so-called three-strikes offense.

b. The person is serving a sentence for a firearms offense or a drunk driving offense.

c. The person has previously been provided drug use intervention services in connection with a nonviolent drug possession offense or as a condition of parole or extended supervision, and the administrative law judge, or DOC, if the person waives a revocation hearing, finds by clear and convincing evidence that the person is unamenable to treatment.

d. The person refuses to participate in drug use intervention services.

Instead of revoking parole or extended supervision, the administrative law judge, or DOC, if the person waives a revocation hearing, may require that the person participate in drug use intervention services, or if the person is already required to participate in such services, may modify the requirements for participation in drug use intervention services. Before modifying conditions of parole or extended supervision, an administrative law judge, or DOC, if a revocation hearing is waived, may require that the person on parole or extended supervision submit to an assessment of the person's drug use or drug dependence.

Under the bill, DOC must arrange for the provision of drug use intervention services ordered as a condition of parole or extended supervision. The drug use intervention services for parolees and for persons on extended supervision are the same services as those available under the bill for persons placed on probation for a nonviolent drug possession offense. The requirements related to treatment providers and the responsibilities for paying for services are also the same as those provided under the bill for probation.

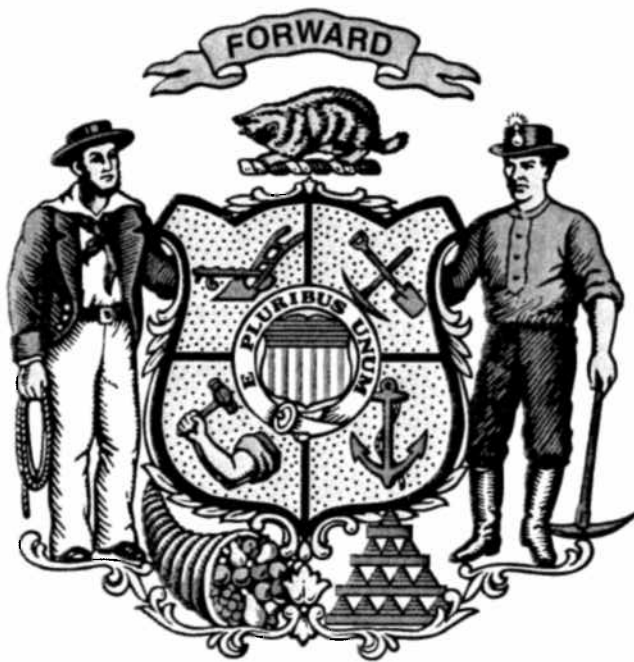
#### ***Study of drug use intervention services***

The bill requires that DHFS, after consultation with DOC, commission a study of the effects of providing drug use intervention services to nonviolent drug possession offenders and other offenders who are drug dependent. DHFS must issue an interim report two and one-half years after the drug use intervention services provisions of this bill, if enacted as an act, are instituted, and must issue a final report five and one-half years after the provisions are instituted. The bill requires that DOC pay for the study.

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

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# Memorandum

Milwaukee County District Attorney's Office  
E. Michael McCann, District Attorney  
Milwaukee Metropolitan Drug Enforcement Group  
821 W. State St., Rm. 219  
Milwaukee, Wisconsin 53233-1485  
Phone: 414-278-5183; Fax 414-278-4807

**TO:**

**FROM:** Jack Stoiber, Assistant District Attorney  
(phone: 278-4328; e-mail: stoiber.jack@mail.da.state.wi.us)

**RE:** Legislation that Requires Probation Precludes Punishment

**DATE:** April 11, 2002

As to the Wisconsin legislation which is graphically summarized on the diagram attached to his page, I respectfully note the following:

## Definitions

### Non-violent Drug Offense: (NVDO)

Includes non-narcotic and narcotic drugs. (e.g., narcotic: heroin)

Includes misdemeanor drugs and felony drugs (e.g., felony: methamphetamine)

Includes **non-addictive drugs** including **hallucinogenic drugs** (e.g., MDMA known as Ecstasy and LSD)

(Treatment would not be a component of offenses involving the last two "includes" categories above; all these offenders would be receiving "education or vocational assistance.")

Would also include:

Includes 961.48 repeat offenders (e.g., cocaine second or subsequent offenders—could be the 30<sup>th</sup> offense, where there is a maximum imprisonment of 2 years)

Includes those charged with drug offenders as Habitual Criminals under 939.62 (e.g., Possession of Heroin, HC, maximum prison 8 years, 939.62 (2)(b))

Includes offenses that occur "while armed with a dangerous weapon" under 939.63

**Firearms Offense:** Endangering Safety by use of a Dangerous Weapon--941.20; Disarming a Police Officer--941.21; Carry a Concealed Weapon--941.23, Carrying a Firearm in School or Alcohol places 941.235 & 941.237; Machine Gun Act Violations --941.26; Short barrel Shotgun or Rifle Possession--941.28; Felon in Possess of Firearm 941.29 and Armor-piercing bullets 941.296.

**Drug Dependent Person: 51.01(8)** "Drug dependent" means a person who uses one or more drugs to the extent that the person's health is substantially impaired or his or her social or economic functioning is substantially disrupted.

**ELIGIBILITY for MANDATORY INCLUSION:**

All NVDO

Generally any Prior Criminal Record does not Exclude. Only exclusion:

Only when an offense is within 5 years of a "serious" felony or within 5 years of the sentence for a "serious" felony ("serious" felonies are those under 939.62(2m)(a)2m.b.) does defendant not qualify based on criminal record.

**Inclusion/Exclusion Issue when Drug offense occurred with another Crime.**

**Excluded** if committed with a felony.

**Excluded** if committed with 940 or 948 misdemeanor or certain firearm offenses.

**Excluded** if committed with a drunk driving offense. Ch. 346.

**Criminal Charge - - - - - to Conviction**

There is no requirement that the conviction for the NVDO be the result of the assumption of responsibility through a guilty plea.

Even after a jury trial where a defendant testifies falsely about possessing the drugs, the court is BOUND to place the person on probation without any incarceration time. (exclusion can only come from "unamenability" which is based on "repeatedly committ[ing] serious violations of drug use intervention service [offender has not started yet], refusal of treatment or education of offender or request to be removed from treatment or education by offender)

*Consequence:*

Except those NVDO offenders with a sincere desire to get treatment and have no other way of paying for treatment, (and their lawyers don't talk them out of it) no one would ever be motivated to accept responsibility and plead guilty. Why?! Litigate the case to the maximum permitted by law. Move to get the informant identified. Move to suppress evidence (statements and physical evidence). Roll the dice on a jury trial. If you lose everything, so what, the judge cannot do anything but give you probation with treatment or education anyway following which the offender will still get expungement. (Would it be legal malpractice for a defense lawyer to encourage his defendant to plead guilty?)

---time delay: Not experienced in misdemeanors, I have been informed by others that with regard to misdemeanors, that it can easily take one year to get from the initial charge to jury trial. With all the incentives in this legislation promoting maximum litigation this does not serve the offender or the community well.

-----delay most works in a defendant's favor not necessarily consistent with justice; victims become fatigued, officers leave the job, etc.

--bail violations: If an offender continues to use drugs while out a bail, this is irrelevant as to the required disposition of "mandatory probation."

**This legislation provides the wrong incentives: delay and litigate everything including going to a jury trial.**

**The delay and litigation, as to the misdemeanors bootstrapped to the NVDO, will greatly inconvenience and stress victims.**

**The delay and litigation will greatly increase the expense of prosecutions.**

## **BOOTSTRAPPING**

**NVDO together with a Misdemeanor (s) that does not exclude and can Limit the penalties on the Attending Misdemeanor and cause the conviction record of the attending misdemeanor to be expunged.**

### **Qualifying (included) Misdemeanors:**

All misdemeanors not expressly excluded; excluded misdemeanors are:

1. Misdemeanors under Ch. 940 & and 948.
2. Certain firearms misdemeanors under Ch. 941 (see definitions)

Examples of what are included:

1. Any otherwise qualifying misdemeanor that occurs "**while armed with a dangerous weapon under 939.63.** (the kind we often see is a guy displays a gun [not pointing it] and threatens to kill a person; usually disorderly conduct while armed.)
2. Any otherwise qualifying misdemeanor when charged as a "**habitual criminal**"
3. Violations of Domestic Abuse Injunctions
4. Lewd and Lacivious
5. Theft (all of many types) & Receiving Stolen Property
6. Criminal Damage to Property
7. Prostitution
8. Criminal Trespass to Dwelling
9. Mistreatment of Animals

**What happens with an attending misdemeanor depends on whether the offender is drug dependent and whether this drug dependency “significantly” contributed to the qualifying misdemeanor.**

When NVDO committed with a Misdemeanor by a Non-drug dependent offender or drug dependent offender but the drug dependency did not significantly contribute to the misdemeanor:

NVDO must get probation without incarceration to include “treatment” or “education” or “vocational assistance.” As to the attending misdemeanor(s), any sentence is available. Just the NVDO record expunged.

When NVDO committed with a Misdemeanor by the offender who is drug dependent AND that drug dependency substantially contributed to this other misdemeanor.

NVDO must get probation without incarceration to include “treatment,” “education” or “occupational assistance.” As to the attending misdemeanor(s), the mandatory sentence is probation without jail but to include “treatment, education or vocational assistance.” Both the NVDO record and the attending misdemeanor(s) records are expunged.

**This bootstrapping another misdemeanor(s) to the NVDO is NOT in California’s Proposition 36.**

*Consequence:*

**This BOOTSTRAPPING of non-drug crimes is a titanic change.** If someone steals, damages property, violates a domestic abuse injunction, acts lewd and lascivious, resists arrests, harasses another, commits prostitution, obstructs an officer, mistreats an animal and that person’s drug dependency is a “significant contributing” factor to this crime at the same time the person is committing a NVDO<sup>1</sup>, the court CANNOT sentence defendant to incarceration person even for 1 day. Moreover the record of the NVDO offense AND the other misdemeanors will be expunged!

**This is true regardless of the person’s criminal record. Regardless if the misdemeanor is charged as a habitual criminal. Regardless of the victim’s wishes.** (This is inconsistent with the recent law changes recognizing the greater role of victims.)

Some absurd results:

I.

A) Sober, non-drug dependent person causes criminal damage to property, criminally trespasses a dwelling and violates a domestic abuse injunction. Has no criminal record. Probably receive some jail.

B) Intoxicated, drug dependent person with a horrendous criminal record, causes criminal damage to property, criminally trespasses a dwelling and violates a domestic abuse injunction. Could and probably would receive jail.

C) Intoxicated, drug dependent person with a horrendous criminal record, because of his desire to get money for drugs or because he’s high on drugs causes criminal damage to property,

---

<sup>1</sup> The draft reads “convicted of another crime . . . in the **same proceeding.**” I assume this means offenses committed at or about the same time that would be in the same complaint.

criminally trespasses a dwelling and violates a domestic abuse injunction (all 3 offenses charged with "habitual criminality") BUT he had a crack pipe in his/her pocket.

--If also charged with Possession of Drug Paraphernalia (PODP), and the offender was convicted of all 4 offenses, the offender could only get probation without incarceration for each of the 4 offenses and would have all four offenses expunged if he was not revoked on probation.

## II.

A habitual thief and drug offender steals \$900 cash to buy drugs and has amount of cocaine on him.

Cannot go to jail if convicted of Drug offense (e.g. 2 year felony) and Theft (9 month misdemeanor) and the offender's record of this will be expunged.

**The victim's interest and wishes are irrelevant.**

A habitual thief and drug offender steals \$900 but has no drugs because he consumed them all. This offender can go to jail for the misdemeanor even though he faces significantly less penalty than the offender who also is involved in a felony drug crime at the time, and will not have his record expunged.

The victim's interest may have great impact.

(Again the great absurdity, the fewer offenses available, 1 instead of 2, means the offender can go to jail. The happenstance of a drug offense occurring at the time of another offense becomes "mitigating factor" for the attending crime. Clearly what is intended is that "drug dependency" be a statutory mitigating factor for misdemeanor offenses, but instead the mitigating factor is the committing an "additional crime" that is a drug crime.

## III.

Defendant is caught with cocaine after being arrested. Defendant was arrested for disorderly conduct and criminal damage while drunk on alcohol (or high on marijuana). Defendant is alcohol dependent (or marijuana dependent) which significantly contributed to the disorderly conduct and criminal damage. Our office charges the cocaine, disorderly conduct and criminal damage in the same proceeding. NO jail possible, must get probation for treatment, education occupational assistance, for all offenses even though the NVDO had nothing to do with the drug dependency that significantly contributed to the other misdemeanors that by happenstance were attending the NVDO.

Another example of the unusual bootstrapping is as follows: An alcoholic (or marijuana user) with a horrific criminal record, while intoxicated (under the influence of marijuana) is involved in an incident out of which he is charged with Criminal Damage to Property--Habitual Criminality, Criminal Trespass to Dwelling--Habitual Criminality and Violation of a Domestic Abuse Injunction--Habitual Criminality, and Resisting Arrest--Habitual. He faces 12 years prison and likely would get jail. HOWEVER, if the offender happens to have a crack pipe in his pocket that he last used 3 weeks before, this qualifies him for mandatory probation with a judge being barred from sending the guy to jail even for 1 day. And, if the probation was not revoked the record would have to be expunged.

The statutory proposal requires NO connection between the NVDO charged and "drug dependency" that contributed to the non-drug offenses.

[If the bad guys were really smart, they would always carry their drug of choice with them if they do a crime so they can bootstrap the penalty restriction (elimination) to their non-drug crime by having a NVDO crime available.]

**It is irrational that the range and severity of penalties for non-drug related misdemeanors is severely circumscribed by the happenstance of committing that misdemeanor in conjunction with a drug offense.**

**It is unfair to the victims on these misdemeanors that their input will be severely limited based upon such arbitrary facts as the offender had 1 rock of cocaine left at the time the offender victimized. (No limitation if offender had smoked his last rock at the time of victimization.)**

## **Drug Treatment, Education or Vocational Assistance**

Treatment of course applies to those psychologically or physically dependent.

There is no requirement that the treatment succeed or in any way be effective (cause improvement). The **“treatment” is the end game, not successful treatment**. Based on the restrictions on the ability to revoke a person’s probation, “relapses” (criminal use of drugs) will not likely result in revocation. What is absolutely clear is that there is no requirement that there be a proven period of abstinence from drugs.

The “no need for successful treatment” aspect of this legislative proposal as well as the automatic expungement is substantially different from California’s *Proposition 36*. In California, before there can be expungement, there must be a “successful completion of drug treatment.” (*California Penal Code* 1201.19(d)).

Education or vocational assistance is the only logical probation condition that would apply to those offenders who possess the non-addictive drugs like the hallucinogenic drugs (e.g., Ecstasy or LSD).

“Educational” or “vocational assistance” drug offenses occur merely as matters of voluntary choices of the offenders, i.e., neither by craving or compulsion. The system’s response will be to “educate” or give “vocational assistance,” then their record for this violation, whether a misdemeanor or felony, will be expunged!

Other than being temporary misdemeanants or felons, the effect will be to “de-criminalize” these very serious offenses.

## **Felony NVDOs and Gun Prohibition**

Certain NVDO (possession of heroin, possession of methamphetamine, possession of cocaine, 2<sup>nd</sup> or subsequent offense, possession of marijuana, 2<sup>nd</sup> or subsequent offense and the like) are felony offenses. Once convicted of these felonies, the person cannot possess a firearm. Since there will be expungement upon completion of the sentences, there will be no prohibition against these offenders owning guns. (Pejoratively stated: Insures an addicts right to possess

guns following his/her probation (treatment, vocational assistance or education, [even if treatment not successful]).)

*Proposition 36 keeps some gun restrictions—California Penal Code 1201.1(d)(2)*

## **Restricted Ability of DOC to Revoke Probation**

The legislation unreasonably restricts DOC ability to revoke probation. It appears the law is to permit multiple relapses (felony use of drugs), during probation.

## **FUNDING**

California's Proposition 36 is substantially more restrictive than this proposal, yet that State appropriated \$120,000,000 per year to fund a treatment alternative. Where is the money coming from? Since these offenders in Wisconsin rarely go to prison, there will be only miniscule savings from less prison time.

## **Conclusion**

The legislative proposal is clearly well intended. It identifies the real need for meaningful drug abuse treatment. However, the requirement for mandatory probation, without even the possibility of utilizing graduated sanctions as a means to achieve success in treatment cuts against the intended effect, viz., to get drug offenders off drugs. The "bootstrapping" of other crimes is unique as far as I know. As noted in the examples it will cause some unusual and unpalatable results. It also is unfair to victims.

Legislative change to facilitate drug treatment is a great idea. It would be best achieved through a proposal that facilitates ongoing court supervisory jurisdiction over a drug abusing offender to ensure effective treatment directed at success. Such legislation would also facilitate the use of courts acting as "drug treatment courts" either in a dedicated (full-time) fashion (for which there may be federal grant money) or "ad hoc" or "per case" fashion.

**DISCLAIMER:** This is my personal opinion and does represent the opinion of my office or any other individuals from the Milwaukee District Attorney's Office.

--jack stoiber  
4-11-02







# Wisconsin State Assembly

P.O. BOX 8952 • MADISON, WI 53708

## FAX COVER SHEET

ATTENTION: Steven G. Lamm, Milwaukee Co. DA's office

FAX NUMBER: 414-278-4807

NUMBER OF PAGES INCLUDING COVER SHEET: 20

FROM: REPRESENTATIVE SCOTT WALKER / Missy

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COMMENTS:

TIP language - thanks  
for looking this over!



# Wisconsin State Assembly

P.O. BOX 8952 • MADISON, WI 53708

## FAX COVER SHEET

ATTENTION: DA Sandy Williams

FAX NUMBER: 262-284-8365

NUMBER OF PAGES INCLUDING COVER SHEET: 6

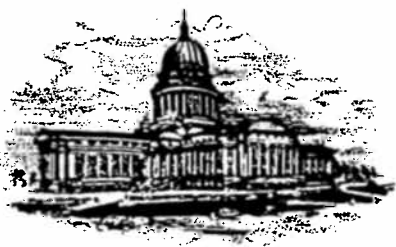
FROM: REPRESENTATIVE SCOTT WALKER / Missy

ph: 608-266-9180

COMMENTS: Dear Sandy,

Could you review the attached  
"Treatment Instead of Prison" bill  
summary and give us some feedback?  
We are interested in the position  
of the WDA.

Thanks much!  
Melissa Gilbert  
Office of State Rep. Scott Walker  
Melissa.Gilbert@legis.state.wi.us



# Wisconsin State Assembly

P.O. BOX 8952 • MADISON, WI 53708

## FAX COVER SHEET

ATTENTION: ADA Steve Glamm

FAX NUMBER: 414-278-4807

NUMBER OF PAGES INCLUDING COVER SHEET:

FROM: REPRESENTATIVE SCOTT WALKER / *Missy*

COMMENTS:

*Hi Steve,*

*Scott thought you would be a good person to give us feedback on the proposed "Treatment Instead of Prison" (TIP) bill. Could you review and let us know what you think?*

*Thanks much!  
Melissa Gilbert  
Office of Rep. Scott Walker  
Melissa.Gilbert@legis.state.wi.us*





Good Morning America World News Tonight 20/20 Downtown Primetime Nightline WNN This Week

March 7, 2002



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## Crime and Punishment

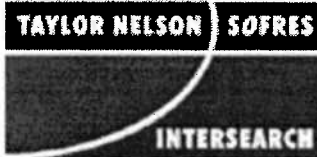
### Poll Finds Americans Forgiving of Nonviolent and First-Time Offenders

*Analysis*  
by Gary Langer

**NEW YORK, March 7** — Public attitudes on crime are less ferocious than is often assumed: While Americans broadly favor tough punishment for violent felons or repeat drug abusers, they're vastly less apt to favor throwing the book at nonviolent criminals or first-time drug offenders.

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Those views are in line with a movement in several states this year to reverse some of their toughest sentencing laws, including long mandatory terms for nonviolent crimes. The trend comes as those states grapple with overflowing prison

Sampling, data collection and tabulation for this poll were done by TNS Intersearch.

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Americans do favor tough penalties for the worst crimes: More than eight in 10 adults in this ABCNEWS.com poll support so-called three-strikes laws requiring mandatory life in prison for third-time violent offenders. But for third-

time nonviolent offenders, the numbers are reversed, with three-quarters opposing mandatory life terms.

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### Three Strikes, You're Out?

	Support	Oppose
For Violent Offenders	82 percent	14
For Nonviolent Offenders	17	76

Similarly, two-thirds of Americans favor jail time, rather than treatment programs, for repeat drug offenders. But for first-time drug offenders, the numbers again are reversed: Nearly nine in 10 prefer treatment, not jail.

### Treatment or Jail?

	Jail	Treatment
For repeat drug offenders	66 percent	24
For first-time offenders	8	89

These numbers don't appear to reflect a change in opinion; public support for get-tough

laws long has been focused on violent crimes and recidivist criminals. For example, the same questions on jail or treatment for drug offenders received similar answers when they first were asked back in 1989. (There's been an eight-point increase in support for treatment for repeat drug offenders, but this still remains a distinct minority — 16 percent then, 24 percent now.) And a 1982 poll found broad preference for rehabilitation and restitution, rather than jail, for nonviolent offenses.

Some policymakers appear to be coming to similar conclusions: Strict mandatory sentencing laws have been eased recently in states including Connecticut, Indiana, Iowa, Louisiana, Mississippi and North Dakota. And a voter initiative in California calls for treatment rather than prison for many drug offenders.

Indeed, this poll finds that 36 percent in the West (mainly California) support treatment rather than jail even for people convicted of drug use several times — still well short of a majority, but 15 points higher than it is in the rest of the country. Westerners (again, Californians account for most of this population) also are 10 points less apt to support three-strikes laws for violent offenders.

There are some differences by political affiliation, most prominently in support for treatment, rather than jail, for repeat drug offenders. Thirty-four percent of Democrats support this, compared to 18 percent of Republicans (again, though, it's a minority in each case).

### Methodology

This ABCNEWS.com survey was conducted by telephone Feb. 27-March 3, among a random national sample of 1,025 adults. The results have a three-point error margin. Sampling, data collection and tabulation were done by TNS Intersearch of Horsham, Pa. ■  
ABCNEWS polls can be found in our [PollVault](#).

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YOAK - suggests as means of compromise

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