

AGENCY: DOC (Community Corrections)

Paper #: 1141

ISSUE: Purchase of Services Funding

ALTERNATIVE:

1: Approve Gov's rec. *- rec'd*
Alts. ② and ③ cut even more than Gov's recs.
Alts. 4 through 8 add GPR *compromised*

Card

SUMMARY: Program supports assessment and treatment services, employment services, sex offender services, etc. Gov. wants to delete \$1.2 million. This is 1/2 of the funding increase in Act 16. Level would be at \$278 per offender.

BY: Tanya



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

February 28, 2002

Joint Committee on Finance

Paper #1141

Community Corrections Purchase of Services Funding (Corrections)

[LFB Summary of the Governor's Budget Reform Bill: Page 34, #9]

CURRENT LAW

Funding for probation, extended supervision, parole and intensive sanctions purchase of services for offenders in 2002-03 is \$19,042,300 GPR, excluding \$210,000 GPR for services associated with the Milwaukee Drug Court project.

GOVERNOR

Delete \$1,226,400 in 2002-03 in purchase of services funding in the Division of Community Corrections.

DISCUSSION POINTS

1. Purchase of services funding for probation, extended supervision and parole supports assessment and treatment services, employment services, day reporting centers, emergency housing, halfway houses, sex offender treatment, polygraph tests, temporary living placements, urinalysis testing and miscellaneous offender services. Total funding for these services in 2002-03 includes \$1,600,000 to support purchase of services funding (\$2,000 annually per offender) in two enhanced supervision projects created in 1997 Act 27 and \$360,000 to support transitional living placements associated with one of the projects. The remaining \$17,082,300 would be used for purchase of services for all other offenders in the community.

2. Purchase of services funding in 2001-02 is currently distributed as identified in the table below. The table also indicates what the distribution of funding would be in 2002-03 under SS AB 1 if purchase of services in 2002-03 were distributed similarly to 2001-02.

<u>Item</u>	<u>2001-02</u>	<u>2002-03</u>
Halfway House /Transitional Living Services	\$12,387,000	\$11,682,500
AODA	984,500	928,500
Day Reporting/Treatment Centers	377,000	355,600
Sex Offender Treatment	604,000	569,700
Urinalysis Screening	861,500	812,500
Other Programs	482,000	454,600
Wisconsin Fresh Start	300,000	282,900
Domestic Abuse	137,000	129,200
Miscellaneous Services	<u>679,000</u>	<u>640,400</u>
Total	\$16,812,000	\$15,855,900

3. In the table, "other programs" include cognitive intervention programs (teaching offenders specific skills to identify, control and change their personal thinking processes and beliefs that lead to criminal behavior), anger management programs and community service projects. "Miscellaneous Services" includes sundry purchases, emergency housing, meals and medications. It should be noted that while Corrections indicates that purchase of service funds would be budgeted to be distributed in a manner similar to current distributions, actual funding provided would be based on individual offender service needs.

4. Act 16 increased purchase of service funding in 2002-03 by \$2,452,700 GPR, from base level funding of \$14,629,600 GPR to \$17,082,300 GPR. Under Act 16, purchase of services was estimated at \$300 per offender in 2001-02 and 2002-03, exclusive of offenders in the enhanced supervision program and absconders. Purchase of services was funded at \$14,629,600 GPR in 2000-01 and resulted in providing approximately \$267 per offender.

5. Under SS AB 1, the Governor deletes \$1,226,400 in 2002-03 in purchase of services funding in the Division of Community Corrections. This represents one-half of the funding increase provided in Act 16 in 2002-03 for purchase of services for offenders on probation, parole and extended supervision. Total purchase of services funding would be \$15,855,900 GPR in 2002-03 and would be estimated \$278 per offender on probation, parole and extended supervision (exclusive of 800 offenders in the enhanced supervision program and absconders). While SS AB 1 represents a 5.6% reduction in purchase of service funding from 2001-02 to 2002-03, overall funding for the program would increase by 8.4% over base year funding.

6. The funding reduction in the bill represents a reduction of the Act 16 increase and not a decision to provide purchase of service funding at a specific level. If the Committee wishes, the bill could be modified to provide purchase of service funding at any of the following levels:

<u>Funding Level Per Offender</u>	<u>2002-03 Reduction</u>	<u>Change to Bill</u>	<u>2002-03 Total</u>
\$270	-\$1,708,200	-\$481,800	\$15,374,100
\$275	-1,423,500	-197,100	15,658,800
\$278 (SS AB 1)	-1,226,400	0	15,855,900
\$280	-1,138,800	87,600	15,943,500
\$285	-854,100	372,300	16,228,200
\$290	-569,400	657,000	16,512,900
\$295	-284,700	941,700	16,797,600

7. If the provision is deleted, funding would remain at the levels provided in Act 16 (\$300 per offender) and result in an increase of \$1,226,400 GPR in 2002-03.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to delete \$1,226,400 GPR in 2002-03 in purchase of services funding in the Division of Community Corrections.

2. Modify the bill to reduce funding by an additional \$481,800 GPR in 2002-03. This alternative would provide purchase of service funding at an estimated \$270 per offender in probation, extended supervision and parole in 2002-03.

<u>Alternative 2</u>	<u>GPR</u>
2001-03 FUNDING	-\$481,800

3. Modify the bill to reduce funding by an additional \$197,100 GPR in 2002-03. This alternative would provide purchase of service funding at an estimated \$275 per offender in probation, extended supervision and parole in 2002-03.

<u>Alternative 3</u>	<u>GPR</u>
2001-03 FUNDING	-\$197,100

4. Modify the bill to provide an additional \$87,600 GPR in 2002-03. This alternative would provide purchase of service funding at an estimated \$280 per offender in probation, extended supervision and parole in 2002-03.

<u>Alternative 4</u>	<u>GPR</u>
2001-03 FUNDING	\$87,600

AGENCY: Corrections

LFB PAPER #: 1142

ISSUE: Chemical Castration

ALTERNATIVE: #3 - Delete the Governor's provision and maintain the program.

SUMMARY:

*Hand
Kaufert*

Alt. 2. continues 6 slots

We don't want to vote to cut the program. There is an alternative that would reduce the program to 6 offenders, but there is no plan for what to do with the offenders that are cut from the program, so it's not a very appealing option right now.

Kaufert is looking for places to find the money so watch for a Kaufert motion on this one.

BY:KATY



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

February 28, 2002

Joint Committee on Finance

Paper #1142

Pharmacological Treatment of Child Sex Offenders (Corrections)

[LFB Summary of the Governor's Budget Reform Bill: Page 34, #10]

CURRENT LAW

The pharmacological treatment of child sex offenders program (chemical castration) is funded at \$288,100 GPR in 2001-02 and \$342,500 GPR in 2002-03 with 1.0 GPR position annually.

GOVERNOR

Delete \$342,500 GPR and 1.0 GPR position in 2002-03 and repeal the chemical castration program.

DISCUSSION POINTS

1. The pharmacological treatment program for persons convicted of serious child sex offenses (first- or second-degree sexual assault of a child, or engaging in repeated acts of sexual assault of the same child) with a victim under the age of 13 years, was created in 1997 Act 284. The program is commonly referred to as the "chemical castration" program. Under s. 304.06(1q), the Parole Commission or Corrections may require as a condition of parole that a serious child sex offender undergo pharmacological treatment. The Department may also require pharmacological treatment as a condition of probation. Current law specifies that in deciding whether to grant a serious child sex offender release on parole, the Parole Commission may not consider, as a factor in making its decision, that the offender is a proper subject for pharmacological treatment or that the offender is willing to participate in pharmacological treatment. In addition, under s. 301.03(11), Corrections is required to, by February 1, 2002, submit a report to the Legislature concerning the extent to which the Department has required chemical castration as a condition of probation or

parole and the effectiveness of the treatment in the cases in which its use has been required.

2. Offenders enter the chemical castration program, either as a prisoner, as an alternative to the revocation of parole or probation or as a volunteer under community supervision. The process is as follows:

a. *Prisoner.* Twelve months before their mandatory release, statutorily eligible offenders are identified as part of the process used for evaluating potential sexually violent persons under Chapter 980. Corrections confirms through file review that the victim was under the age of 13 at the time the offense was committed. During the next three months, Corrections documents the offender's identified need for sex offender treatment, program participation and completion, if any. The offender's progression through the Chapter 980 process is also monitored and documented. Inmates who are referred to the Department of Justice for possible commitment under Chapter 980 are removed from the list of offenders eligible for the chemical castration program. Ineligibility is due to the possibility they will be committed to the Department of Health and Family Services, and/or the likelihood that they will ultimately be released with fewer than 30 days of incarceration remaining. According to Corrections, 30 days is the recommended minimum amount of incarceration time needed to begin treatment and achieve stability on the medication before release.

Approximately four to six months prior to the inmate's release date, Corrections provides the appropriate correctional institution with a list of inmates eligible to participate in the program. A packet of informational materials for the inmate's review is provided. The probation and parole agent of record is also notified of the offender's eligibility so that release planning can begin as appropriate.

A Department of Corrections program specialist regularly visits the institutions where eligible inmates are housed to meet with the offenders, explain the program and answer questions. According to the Department, this is strictly a voluntary process and no special consideration (for example, parole or reduced custody level) is granted in exchange for participation in the program. Possible side effects of the medication are also discussed. Inmates who are interested in participating in the program may sign an acknowledgement of interest or contact the program specialist at a later date to express their interest.

Upon receiving notice of an inmate's interest in the program, the program specialist contacts the institution's health services unit to request that they conduct a file review and medical screen of the inmate. Upon completion of the review, results are forwarded to the program psychiatrist for review. If any medical contraindications are noted, the inmate may be excluded from the program.

If an offender is determined to be medically appropriate, the inmate is transferred to one of the following institutions: (a) Columbia Correctional Institution (maximum custody inmates); (b) Racine Correctional Institution (minimum and medium custody inmates); or (c) Oshkosh Correctional Institution (sex offender treatment program participants).

Approximately 60 to 120 days before release, a psychiatric interview with the program psychiatrist is scheduled. The doctor begins the evaluation by ascertaining that the offender is willing to participate in the program. Once the offender consents to the evaluation, the evaluation includes a physical examination, lab work, a review of the offender's past medical and psychiatric history, family, social/vocational and other personal/psychosexual histories, and a face-to-face mental status examination. Treatment is authorized based upon the doctor's evaluation and subsequent recommendation for inmates found to be medically suitable. Subsequent to the evaluation, the offender must agree to participate in the program and the program psychiatrist will forward a prescription to the Bureau of Health Services to begin injections.

Medical treatment begins no later than 30 days before release. Corrections indicates that, "As some research indicates a brief period of possible hypersexual behavior at the very beginning of treatment, the Department has elected to begin treatment while the offender is still incarcerated to facilitate closer monitoring. In addition, injections usually occur weekly until an acceptable level of testosterone is established. This level is monitored through blood tests." Once the offender is on a monthly injection schedule and has been released into the community, injections are ordered as prescribed by the doctor. The offender may be ordered to report to Columbia, Oshkosh, or Racine Correctional Institution to continue treatment. Necessary lab tests will be conducted as ordered by the doctor.

Throughout the selection and evaluation process, the program specialist works with the offender's probation and parole agent to prepare for the offender's release. Offenders in the program are required to participate in sex offender treatment with an approved provider in conjunction with the pharmacological treatment. Corrections indicates that, "Pharmacological treatment is not intended as a substitute for sex offender treatment in the community." Prior to release, the agent and program specialist attempt to identify a medical provider in the community who will continue to provide pharmacological treatment to the offender. Possible providers might include a public health department, mental health clinic, private clinic, private home-health care, or Corrections staff. Selection of a provider depends on availability and location. Corrections pays for costs related to the community treatment.

b. *Alternative to Revocation.* Pharmacological treatment is also available for use as a formal alternative to the revocation of parole or probation. As with prisoners, the offender must consent to participate in the medical evaluation and subsequent treatment and attendant requirements, and must meet all statutory, medical and administrative program requirements in order to be eligible. If the program appears to be appropriate, the program specialist meets with the agent and offender to discuss the program, including potential side effects. If the offender agrees to participate, the offender signs an acknowledgment and a medical screening is completed by the program specialist. If the offender appears medically suitable, arrangements are made to transfer the offender to the Racine Correctional Institution for further evaluation.

c. *Volunteers.* Offenders on probation or parole who are statutorily eligible and not in the custody of Corrections or in violation or revocation status may also be referred to participate in the program. If an offender volunteers to participate, the program specialist contacts the offender to discuss the appropriateness of the referral. Offenders are then referred for a medical exam to determine medical suitability. The offender is subject to the rules of the program, and must give his probation and parole agent adequate notice before terminating treatment, unless there is a medical emergency.

3. Termination from treatment is a part of each individual's participation in the program. According to the Department, an "offender should not be allowed to discharge from supervision while undergoing pharmacological treatment. Rather, a period of adjustment following PT [pharmacological treatment] termination should be factored in. An adjustment period of no less than three months should be planned for the offender. During this time, increased supervision is recommended since the frequency of sexual thoughts and urges may increase. This planning should also occur during the course of sex offender treatment and be made a part of any relapse prevention planning."

4. As of January 22, 2002, there were six offenders receiving injections under the chemical castration program (two inmates, one offender placed in the program as an alternative to revocation [ATR] and three in the community). In addition, there are 17 other offenders currently in the earlier stages to the evaluation process: three in evaluation, two awaiting evaluation, three ATRs who have been deemed medically appropriate, eight inmates who have been deemed medically appropriate and one awaiting transfer to the Racine Correctional Institution for evaluation. Since evaluations for the program began, 523 inmate cases have been reviewed for statutory eligibility, with 217 inmates determined to be statutorily eligible. Given the voluntary nature of the program, it is not known how many of the statutorily-eligible offenders will decide to participate in the program.

5. The program became effective in January, 1999. Offender evaluation began in January, 2001, and the first offender began treatment under the program in May, 2001. During the intervening period, Corrections promulgated rules for the program, developed policies and procedures, and hired and trained program staff. Funding for the program in the 1999-01 biennium was \$678,800 GPR in 1999-00 and \$681,400 GPR in 2000-01 with 1.0 GPR position annually and was intended to fund the treatment of up to 50 offenders. In 1999-00, the Joint Committee on Finance transferred \$653,500 GPR from the program to other uses for the Department. In that year the program had expenditures of \$23,300 related to limited-term employees and supplies and services. In 2000-01, the program had expenditures of \$122,300 related to salaries, fringe benefits and supplies and services, and lapsed \$559,100.

6. Under 2001 Act 16, funding for the chemical castration program was \$676,000 GPR annually. On November 5, 2001, funding for the program was reduced on a one-time basis to \$288,100 GPR in 2001-02 and \$344,400 GPR in 2002-03 by the Joint Committee on Finance under s. 13.10 in order to fund additional district attorney positions. At the December, 2001, s. 13.10 meeting, the 2002-03 appropriation was further reduced by \$1,900 GPR, to \$342,500 GPR, as part

of Corrections' reallocation of across-the-board reductions. Remaining funding is estimated to support treatment of nine offenders in 2001-02 and 13 offenders in 2002-03.

7. Given that the program currently has six offenders, the Committee could provide funding to continue the program at this level in 2002-03. Under this alternative, \$253,300 GPR could be provided for the 1.0 GPR position, and for supplies and services, including medication. Cost per offender in the program under the alternative would be approximately \$42,200 annually, compared to \$26,300 currently budgeted for the program.

8. Under SS AB 1, 2002-03 funding for the program is deleted and all statutory language removed, effective July 1, 2002. If the Committee wishes to retain the program, the provision could be deleted.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to delete \$342,500 GPR and 1.0 GPR position in 2002-03 and repeal the chemical castration program, effective July 1, 2002.

2. Modify the bill to provide \$253,300 GPR and 1.0 GPR position in 2002-03 to fund the chemical castration program for six offenders annually. Delete the repeal of statutory language associated with the program.

<u>Alternative 2</u>	<u>GPR</u>
2001-03 FUNDING	\$253,300
2002-03 POSITIONS	1.00

3. Delete provision.

<u>Alternative 3</u>	<u>GPR</u>
2001-03 FUNDING	\$342,500
2002-03 POSITIONS	1.00

Prepared by: Jere Bauer

MO#	BURKE	DECKER	MOORE	SHIBILSKI	PLACHE	WIRCH	DARLING	ROSENZWEIG	GARD	KAUFERT	ALBERS	DUFF	WARD	HUEBSCH	HUBER	COGGS	AYE	NO	ABS
	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N			
	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y			

Truth-in-Sentencing

(LFB Summary of the Governor's Budget Reform Bill: Page 88)

LFB Summary Item for Which an Issue Paper Has Been Prepared

Item #

Title

1

Bifurcated Sentencing Modifications (Paper #1255)

Move each item separately

AGENCY: Truth in Sentencing

Paper #: 1255

ISSUE: Truth in Sentencing and Sentencing Commission Staff

ALTERNATIVE:

(BOLD is important to Gwen, BOLD and * is also a must have for Chuck)**

2(a)(1)* (SB 357): Modification of Bifurcated Sentences**
allow court to modify sentences

SKIP 2b IF 2a1 passes (they can't be done together), if not ...2(b)2 (Delete Gov.): Joint Review Committee on Criminal Penalties Recs. Regarding Sentencing Modifications

2(c)(1) (Gov.): General Sentencing Requirements
require court to consider protection of public, gravity of offense and rehabilitative needs

X **2(d)(1)*** (SB 357): Documentation of Sentencing Requirements**
require court to make explicit findings of fact to support elements of sentencing

X **2(e)(1) (SB 357): Court Ordered Treatment**
court may order treatment as part of sentence

2(f)(1)* (SB 357): Standard of Review on Appeal**
appellate court required to reverse sentence if it finds a court erroneously exercised discretion

2(g)(1) (Gov.): Consecutive and Concurrent Sentences

2(h)(1) (Gov.): Consecutive Sentence Computation
require consecutive sentences (no in and out)

2(i)(1) (Gov.): Mandatory Minimum Sentences and Probation Prohibitions for Repeat Serious Sex Crime and Serious Violent Crimes

2(j)(2): Intentionally Causing Harm to a Fetus by Conduct that Creates a substantial risk of great bodily harm

2(k)(1) (Gov.): Medical Release

allow inmate to request release for terminal condition

2(L)(1) (Gov.): Consolidation of Extended Supervision Revocation Proceedings

2(m)(1) (Gov.): Videotape Deposition at Extended Supervision Revocation Proceedings

2(n)(1) (SB 357): Effectiveness of Probation, Parole and Extended Supervision

require DOC to promote increased effectiveness of probation in certain counties

2(o)(1) (Gov.): Sentencing Commission Membership increase from 20 to 21

(Huber will be drafting a motion with to allow the AG to appoint "a prosecutor" rather than a "a DA" to the sentencing commission. **Support it for the ADAs).**

2(p)(2)* (SB 357): Sentencing Guidelines Adopted as Admin. Rule**

2(q)(1) or 2(q)(2): Effective date

AND

Alternative B2: Provide additional \$144,800 GPR for commission staff

B1 as fallback: Gov's rec.

Other Gwen Motions in DOC:

Delay Stanley: to July 2003 (saves \$6.6 million)

Visitor's Bus: create PR account to allow Relig. and Community Orgs. to contribute to offset costs. And allow DOC to charge up to \$15/person, \$20 per family, report on rider ship and how it affects rehabilitation

DOC Audit: \$2.2 misappropriated, lapse \$ and adopt 3 recs. by Audit Bureau

BY: Tanya



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

February 28, 2002

Joint Committee on Finance

Paper #1255

Bifurcated Sentencing Modifications (Truth-in-Sentencing)

[LFB Summary of the Governor's Budget Reform Bill: Page 88, #1]

*Gov w/ statutory clarification
36 when motions*

CURRENT LAW

For all felony offenses committed on or after December 31, 1999, except for those punishable by life imprisonment, felons sentenced to prison are given a bifurcated (two-part) sentence, under which a sentencing judge specifies an amount of time a convicted felon will serve in prison and an amount of time a felon will serve in the community on extended supervision. The bifurcated (determinate) sentencing structure is commonly known as "truth-in-sentencing." Judges may also fine an offender in addition to or instead of imposing a bifurcated sentence or jail term or may place a felon on probation. Felons sentenced to life imprisonment do not receive an extended supervision sentence, but rather may apply for extended supervision release under specific circumstances.

GOVERNOR

Modify provisions of the state's sentencing system. Create a Sentencing Commission, to sunset on December 31, 2007, and provide \$140,000 GPR in 2002-03 and 6.0 GPR positions, including an unclassified executive director and an unclassified deputy director.

DISCUSSION POINTS

1. In 1997 Act 283, the Legislature enacted legislation which abolished parole and instead created a "truth-in-sentencing" system. Under truth-in-sentencing, courts are required, for offenses occurring on or after December 31, 1999, to impose a bifurcated sentence for those offenders sentenced to prison, other than offenders sentenced to life imprisonment, that consists of a term of confinement in prison of not less than one year, followed by a term of extended supervision

of not less than 25% of the length of the term of confinement. Under truth-in-sentencing, a prisoner is required to serve 100% of the sentence. Act 283 also increased the maximum sentences for most felonies by 50%, or one year, whichever was greater. Because truth-in-sentencing applies only to sentences for crimes committed on or after December 31, 1999, the correctional system will, for many years, have offenders sentenced under the old sentencing system and eligible for parole, offenders sentenced under the new bifurcated system, and offenders with both kinds of sentences. Upon release from prison, offenders sentenced under the previous system will be placed on parole supervision, while offenders released under truth-in-sentencing will be placed on extended supervision. Unlike parole, Act 283 authorizes judges to impose conditions on the extended supervision term. Act 283 also eliminates the intensive sanctions program as an option for the confinement portion of a bifurcated sentence.

Act 283 created a Criminal Penalties Study Committee (CPSC) to study the classification of criminal offenses in the criminal code, the penalties for all felonies and Class A misdemeanors and issues relating to the implementation of the changes in sentencing made by the Act. In addition, the Committee was required to make recommendations concerning:

- a. Creating a uniform classification system for all felonies, including felonies outside the criminal code;
- b. Classifying each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification;
- c. Consolidating all felonies into a single criminal code;
- d. The creation of a sentencing commission to promulgate advisory sentencing guidelines for use by judges when imposing sentence;
- e. Temporary advisory sentencing guidelines for use by judges when imposing sentence during the period before the promulgation of advisory sentencing guidelines by a sentencing commission; and
- f. Changing the administrative rules of the Department of Corrections to ensure that a person who violates a condition of extended supervision imposed as part of a bifurcated sentence is returned to prison promptly and for an appropriate period of time.

The Criminal Penalties Study Committee first met on August 28, 1998. Act 283 required the Committee to submit a report of its findings and recommendations to the Legislature and Governor by April 30, 1999. The Committee found this deadline unrealistic "in light of the magnitude of the tasks assigned to it" and because it had great difficulty in securing adequate and reliable data. As a result, the Committee requested a deadline extension to August 31, 1999. The Committee submitted its final report to the Legislature and Governor on August 31, 1999, along with proposed legislation that was introduced as 1999 Assembly Bill 465 and 1999 Senate Bill 237. In addition, 1999 Senate Bill 357 (the 1999 Senate budget adjustment bill) included provisions of the CPSC recommendations. Assembly Bill 465 passed the Assembly and Senate

Bill 357 passed the Senate, but neither bill was passed by the other house during the 1999 Session.

2. In the 2001 legislative session, 2001 Assembly Bill 3, related to the CPSC recommendations, was introduced. Assembly Bill 3, as amended, was passed by the Assembly on February 14, 2001, and Engrossed AB 3 has been referred by the Senate to the Senate Judiciary, Consumer Affairs and Campaign Finance Reform Committee. No Senate bill has been introduced in the 2001 legislative session related to the CPSC recommendations.

3. Special Session Assembly Bill 1 generally incorporates the provisions of the CPSC recommendations. These provisions are detailed in the Legislative Fiscal Bureau's Summary of Provisions: Governor's 2001-03 Budget Reform Bill, February, 2002, pages 88 to 101.

4. In general, the provisions of the truth-in-sentencing bills that have passed one house of the Legislature (1999 SB 357 and 2001 Engrossed AB 3) in the last two legislative sessions have been similar. There are, however, areas of difference. The attachment identifies the differences in the truth-in-sentencing provisions under 2001 SS AB 1, 2001 Engrossed AB 3 and 1999 SB 357. The Committee may wish to utilize the attachment in making decisions related to the truth-in-sentencing provision in SS AB 1. It should be noted that the table does not identify technical changes or changes as a result of the creation of a new felony offense. Also note that felony thresholds for certain property crimes are addressed in a separate issue paper under the State Public Defender (Paper #1215). Except as noted, SS AB 1 treats new felony offenses enacted by the Legislature since the CPSC recommendations by using the same classification schema developed by the CPSC.

5. The item in the attachment relating to the effectiveness of probation, parole and extended supervision, which is contained only in 1999 SB 357, would require Corrections, beginning on January 1, 2001, to do the following in Brown, Dane, Kenosha, Milwaukee, Racine and Rock Counties: (a) develop a partnership with the community; (b) have strategies for local crime prevention; (c) supervise offenders actively; (d) commit additional resources to enhance supervision and purchase services for offenders; (e) establish day reporting centers; and (f) ensure that agents supervise no more than 20 persons on probation, extended supervision and parole. The requirements to commit additional purchase of service resources, establish day reporting centers and provide a one-to-20 supervision ratio in those six counties could require potentially significant additional resources for those counties, which would be identified by Corrections under a plan to be submitted to the Joint Committee on Finance. If the provision were enacted, any changes in funding, positions and program design would need to be addressed through subsequent legislative action and modification in departmental procedures or administrative rules.

6. Under SS AB 1, \$140,000 GPR and 6.0 GPR positions (1.0 GPR unclassified executive director, 1.0 GPR unclassified deputy director and 4.0 GPR classified positions) are created in 2002-03 to staff the Sentencing Commission. The proposed staffing is identical to that recommended by the CPSC. Costs associated with the Commission were derived from the CPSC report. Funding under the bill would be divided as follows: (a) salaries and fringe benefits, \$92,000 GPR; (b) supplies and services, including rent and publications costs, \$37,000 GPR; and (c) one-

time costs, \$11,000 GPR. The Committee should note, however, that funding under SS AB 1 is intended to support only the costs associated with the executive and deputy director positions for nine months in 2002-03. The remaining 4.0 positions would need to be funded in the 2003-05 biennium, at a cost of \$271,700 GPR in 2003-04 and \$249,700 GPR in 2004-05.

7. Under the SS AB 1, the Sentencing Commission and its staff would be required to: (a) monitor and compile data regarding sentencing practices in the state; (b) adopt advisory sentencing guidelines for felonies committed on or after the effective date of the bill, to promote public safety, to reflect changes in sentencing practices and to preserve the integrity of the criminal justice and correctional systems; (c) provide information to the Legislature, state agencies and the public regarding the costs to and other needs of the Department of Corrections which result from sentencing practices; (d) provide information to judges and lawyers about the sentencing guidelines; (e) publish and distribute to all circuit judges hearing criminal cases an annual report regarding its work, which must include all sentencing guidelines and all changes in existing sentencing guidelines adopted during the preceding year; (f) study whether race is a basis for imposing sentences in criminal cases and submit a report and recommendations on this issue to the Governor, to each house of the Legislature and to the Supreme Court; (g) assist the Legislature in assessing the cost of enacting new or revising existing statutes affecting criminal sentencing; (h) study how sentencing options affect various types of offenders and offenses; and (i) at least semiannually, submit reports to all circuit judges, and to the appropriate standing committees of the Legislature, that contain statistics regarding criminal sentences. While all of these requirements would not need to be completed within the first year of the Commission's existence, it could be argued that progress would be significantly hindered by having only a director and deputy director position in 2002-03. Funding of the additional 4.0 staff positions recommended by the CPSC would require an additional \$144,800 GPR in 2002-03.

8. Alternatively, the bill could be modified to remove the 4.0 unfunded positions in the Sentencing Commission. If the Sentencing Commission determines that these positions are necessary, additional funding and position authority could be requested in the 2003-05 biennial budget.

9. Except for the Sentencing Commission, the bill makes no appropriation of funds. There are, however, provisions in SS AB 1 which may either increase or decrease state costs in both the short-term and long-term. These provisions include:

a. *Crime Classification Modifications.* The intent of the CPSC recommendations was, generally, to create a uniform classification system for all felonies, including felonies outside the criminal code, in a manner that places crimes of similar severity into the same classification, and to create penalties under which the maximum time a person could serve in prison under truth-in-sentencing would roughly parallel the maximum sentence mandatory release date under the prior indeterminate sentencing structure. Because 1997 Act 283 increased all penalties by 50%, or one year, whichever is greater, the impact of SS AB 1 would be to generally lower maximum penalties. The changes in the classifications of some crimes and the creation of some revised criminal offenses would, overall, likely reduce the length of prison time served and extended supervision sentences, and therefore state costs.

b. *County Reimbursement for Sanctioned Extended Supervision Holds.* The requirement that the state reimburse counties for the actual costs of confining extended supervision offenders held as a sanction for violation of extended supervision could increase or decrease state costs. Under the bill, funding for county reimbursement would come from Corrections' community corrections and corrections contracts appropriations. Currently, Corrections cannot hold individuals in county jails as a sanction for violating a rule of probation or parole. Individuals may be held in county jails pending the revocation of their probation extended supervision or parole for noncriminal rules violations and counties are reimbursed up to \$40 per day for such felons held pending revocation. To the extent that fewer offenders are held for rules violations pending revocation, costs to the reimbursement appropriation, and prison costs, may decrease. However, if more offenders are held under a sanction or held for longer periods of time than they would have been held pending revocation, reimbursement costs would increase. Further, the provision in the bill would require counties to be reimbursed for actual costs, which would likely be greater than \$40 per day and would not be subject to proration. The bill does not specify what is included in actual costs or indicate who would determine this amount.

c. *Judicial Determination of Extended Supervision Revocation Length.* Under SS AB 1, judges would determine the length of additional incarceration time to be provided to an extended supervision offender whose extended supervision is being revoked, which is currently, determined by either the Department of Corrections or an administrative law judge. The additional step of requiring a sentencing judge to hold a hearing to impose a specific length of reincarceration would require increased court time for the court, Corrections, District Attorneys and, if provided, the Public Defender. To the extent that revocation reincarceration hearings do not significantly increase caseloads, costs would not increase. However, if hearings require increased court, prosecutorial, defense and Corrections resources, costs to the state would be higher.

d. *Extended Supervision Modifications.* The bill would allow offenders or Corrections to petition the sentencing court to modify the conditions of extended supervision. As with judicial determination of extended supervision revocation length, increased costs could result for the court, Corrections, District Attorneys and the Public Defenders.

e. *Corrections Staff Requirements.* Under the bill, Corrections staff would be involved with geriatric and medical sentence modification hearings, conditions of extended supervision hearings and seeking circuit court review of any decision not to revoke an offender's extended supervision by an action for certiorari. If these hearings result in increased caseload beyond what can be addressed by existing staff, costs to Corrections may be higher.

f. *Geriatric and Medical Release.* Under the bill, in specific circumstances older or terminally ill inmates could petition the sentencing court to modify a sentence by placing an inmate on extended supervision prior to the expiration of an incarceration sentence. To the extent that any individual meets these criteria and is placed on extended supervision prior to the expiration of an incarceration sentence, costs to the state would decrease. It should be noted that since the bill requires an individual to have served at least five years of an incarceration sentence

before becoming eligible for the geriatric release provision, such releases would not occur until at least late 2005.

g. *Limitation on Extended Supervision Sentences.* Under 1997 Act 283, maximum extended supervision sentences were set at one-half or more of the maximum confinement time. This provision did not, however, preclude the possibility of a short incarceration sentence followed by a lengthy extended supervision sentence. To mitigate this possibility and potentially reduce future costs, the bill places specific caps on extended supervision sentences for each felony classification. The CPSC indicates that the proposed limits would "allow for sufficient supervision given the nature of the crimes proposed for inclusion in each of the felony classes while advancing public safety and offender rehabilitation goals that underlie the notion of supervision upon release from prison. The Committee believes these purposes of extended supervision can realistically be accomplished within the proposed limits without consuming resources of supervision so far into the future that no one knows what they will even be."

h. *Elimination of Mandatory Minimum and Mandatory Consecutive Sentences.* Under the bill, certain current law provisions creating minimum sentences or mandatory consecutive sentences would be repealed. The CPSC indicates that this change "allows the court maximum sentencing discretion to deal with the multitude of offenders who commit crimes and the multitude of ways in which they do so." To the extent that judges decide to impose a sentence that is less than would have been required under current law, incarceration costs to the state would be reduced.

i. *Reclassification of Criminal Offenses.* As indicated previously, the reclassification of felony sentences into nine instead of six classes and basing maximum prison sentence lengths in those classes on prior mandatory release times under prior law would have the effect of mitigating the increased sentence lengths provided under 1997 Act 283. Without the changes proposed in the bill, 1997 Act 283 changes remain and corrections costs would be higher than under the bill.

10. In a September, 2001, report related to offenders admitted under truth-in-sentencing, Corrections indicated:

"Based on an analysis of admissions over an eighteen month period, it appears confinement times for offenders sentenced under TIS [truth-in-sentencing] are, on average, longer than confinement periods for offender sentenced under an indeterminate sentencing structure in prior years. It is therefore reasonable to infer that Wisconsin DOC populations will increase as a result of emerging TIS sentencing patterns. Currently, the magnitude of this increase has been estimated based on a specific subgroup of offenders admitted under TIS. Actual population and cost impact on the Department, however, will continue to be dependent on sentencing patterns exhibited by the judiciary."

11. Passage of the truth-in-sentencing provisions under the Governor's recommendation, or passage of other similar legislation, will result in lowered correctional system costs over the long term by moderating sentence lengths. It is not possible, however, to determine the amount of these savings because savings will depend on judicial sentencing patterns under the revised sentencing

structure. Despite the potential long-term savings, the differences between SS AB 1 and the two other truth-in-sentencing bills reflect policy rather than fiscal, alternatives. The Committee may, therefore, wish to delete the provision to allow standing Committee consideration of the policy issues.

ALTERNATIVES TO BILL

A. Sentencing System

1. Approve the Governor's recommendation to modify provisions of the state's sentencing system.

2. Modify the bill related to the state's sentencing system by selecting one or more of the following alternatives. (A detailed description of each alternative is identified in the attachment.)

a. *Modification of Bifurcated Sentences*

(1) Allow a court to modify a bifurcated sentence and require the Director of State Courts to promulgate rules establishing the procedure. (1999 Senate Bill 357) [Cannot be selected with Alternative 2b(1).]

(2) Take no action.

b. *Joint Review Committee on Criminal Penalties Recommendations Regarding Sentencing Modifications*

(1) Include SS AB 1 provision to require the Joint Review Committee on Criminal Penalties to submit a report to the Legislature and the Governor, no later than July 1, 2003, containing recommendations regarding standards and procedures to be used by a court to modify a bifurcated sentence. (2001 SS AB 1) [Cannot be selected with Alternative 2a(1).]

(2) Delete SS AB 1 provision.

c. *General Sentencing Requirements*

(1) Include SS AB 1 provision to, in addition to considering the sentencing guidelines and aggravating and mitigating factors, require the court to consider: (a) the protection of the public; (b) the gravity of the offense; and (c) the rehabilitative needs of the defendant. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

d. *Documentation of Sentencing Decision*

(1) Require the court to make explicit findings of fact on the record to support each element of its sentencing decision. (1999 SB 357)

(2) Take no action.

e. *Court-Ordered Drug Treatment*

(1) Specify that when the court imposes a sentence or places a person on probation for any offense committed on or after the effective date of the bill, the court may order the person to participate in a drug treatment program as a condition of probation or, while in prison or as a condition of extended supervision or both. Specify that the court may order Corrections to pay for the cost of drug treatment. (2001 Engrossed AB 3)

(2) Take no action.

f. *Standard of Review on Appeal*

(1) Specify that in an appeal from a court's sentencing decision, the appellate court is required to reverse the sentencing decision if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision or there is not substantial evidence in the record to support the sentencing decision. (1999 SB 357)

(2) Take no action.

g. *Consecutive and Concurrent Sentences*

(1) Include SS AB 1 provision to create specific provisions related to the sentencing of: (a) a determinate sentence to run concurrently with or consecutive to determinate sentences; (b) a determinate sentence to run concurrently with or consecutive to indeterminate sentences; and (c) an indeterminate sentence to run concurrently with or consecutive to determinate sentences. Specify that if a person is serving concurrent determinate sentences and extended supervision is revoked in each case, or if a person is serving a determinate sentence concurrent with an indeterminate sentence and both extended supervision and parole are revoked, the person must concurrently serve any periods of confinement in prison required under those sentences. (2001 SS AB 1)

(2) Specify that if a court provides that a bifurcated sentence is to run concurrent with or consecutive to a sentence to prison other than another bifurcated sentence, the court is

required to do all of the following: (a) order the term of confinement in prison under the bifurcated sentence to be concurrent with or consecutive to the term of confinement in prison required under the nonbifurcated sentence; and (b) order the period of parole under the nonbifurcated sentence to be concurrent with or consecutive to the term of extended supervision required under the bifurcated sentence.

Specify that if a court imposes a sentence to prison that is not a bifurcated sentence and provides that the nonbifurcated sentence is to run concurrent with or consecutive to a bifurcated sentence, the court is required to do all of the following: (a) order the term of confinement in prison under the nonbifurcated sentence to be concurrent with or consecutive to the term of confinement in prison required under the bifurcated sentence; and (b) order the period of parole under the nonbifurcated sentence to be concurrent with or consecutive to the term of extended supervision required under the bifurcated sentence. (1999 SB 357)

(3) Delete SS AB 1 provision.

h. *Consecutive Sentence Computation*

(1) Include SS AB 1 provision to specify that all consecutive sentences for crimes committed before December 31, 1999, be computed as one continuous sentence, and specify that all consecutive sentences imposed for crimes committed on or after December 31, 1999, be computed as one continuous sentence. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

i. *Mandatory Minimum Sentences and Probation Prohibitions for Repeat Serious Sex Crime and Serious Violent Crimes*

(1) Include SS AB 1 provision to reduce the minimum applicable sentence length. (2001 SS AB 1)

(2) Repeal the mandatory minimum sentences and probation prohibitions for repeat serious sex crime and serious violent crimes. (1999 SB 357)

(3) Delete SS AB 1 provision, thus maintaining the higher minimum applicable sentence length.

j. *Intentionally Causing Bodily Harm to an Unborn Child By Conduct that Creates a Substantial Risk of Great Bodily Harm*

(1) Include SS AB 1 provision to classify the offense as a Class H felony (a 3-year maximum sentence), consistent with the CPSC classification schema. (2001 SS AB 1)

(2) Repeal the provision. (1999 SB 357)

(3) Delete SS AB 1 provision. (Selection of this alternative would result in the offense remaining classified as a Class D felony [a 15-year maximum sentence under the bill] as opposed to a Class H offense.)

k. *Medical Release*

(1) Include SS AB 1 provision to specify that an inmate may request release from prison, if the inmate has a terminal condition. Define "terminal condition" as an incurable condition afflicting a person, caused by injury, disease, or illness, as a result of which the person has a medical prognosis that his or her life expectancy is six months or less, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

L. *Consolidation of Extended Supervision Revocation Proceedings*

(1) Include SS AB 1 provision to allow revocation proceedings related to the same person to be consolidated. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

m. *Videotape Deposition at Extended Supervision Revocation Proceedings*

(1) Include SS AB 1 provision to allow the use of videotaped depositions in revocation hearings. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

n. *Effectiveness of Probation, Parole and Extended Supervision*

(1) Require Corrections to take steps to promote the increased effectiveness of probation, extended supervision and parole in Brown, Dane, Kenosha, Milwaukee, Racine and Rock counties. Require that in each of these counties, Corrections, beginning ten months after the effective date of the bill, develop a partnership with the community, have strategies for local crime prevention, supervise offenders actively, commit additional resources to enhance supervision and purchase services for offenders, establish day reporting centers and ensure that probation, extended supervision and parole agents, on average, supervise no more than 20

persons on probation, extended supervision or parole. Require that four months after the effective date of the bill, Corrections begin to reduce caseloads in these counties. Require that no later than two months after the effective date of the bill, Corrections develop a plan for implementing the provisions and submit that plan to the Joint Committee on Finance. (1999 SB 357, modified to reflect current legislative session)

(2) Take no action.

o. *Sentencing Commission Membership*

(1) Include SS AB 1 provision to create a Sentencing Commission consisting of 21 members, including seven public members.

(2) Create a Sentencing Commission consisting of 20 members, including six public members. (1999 SB 357)

p. *Sentencing Guidelines Adopted as Administrative Rules*

(1) Include SS AB 1 provision to specify that guidelines and standards adopted by the Sentencing Commission not be subject to the administrative rules process. (2001 SS AB 1)

(2) Delete SS AB 1 provision. (Selection of this alternative would result in guidelines and standards adopted by the Sentencing Commission being subject to the administrative rules process as proposed in 1999 SB 357.)

q. *Effective Date*

(1) Provide that the penalty provisions become effective on the effective date of the bill (1999 SB 357) to first apply to offenses committed on the effective date.

(2) Take no action.

3. Delete provisions related to the modification of the state's sentencing system.

B. Sentencing Commission Staffing

1. Provide \$140,000 GPR in 2002-03 and 6.0 GPR positions, for a newly-created Sentencing Commission, including an unclassified executive director and an unclassified deputy director.

2. Provide an additional \$144,800 GPR in 2002-03 to support the costs of 4.0 GPR positions created in the Sentencing Commission for nine months.

Alternative B2	GPR
2001-03 FUNDING	\$144,800

3. Delete 4.0 GPR positions in the Sentencing Commission.

Alternative B3	GPR
2002-03 POSITIONS	- 4.00

4. Delete the provision.

Alternative B4	GPR
2001-03 FUNDING	- \$140,000
2002-03 POSITIONS	- 6.00

Prepared by: Jere Bauer
Attachment

①

A add1
MO# 2d11

① BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
② WIRCH	Y	N	A
DARLING	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 7 NO 7 ABS _____

②

MO# A2e1

① BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
② COGGS	Y	N	A

AYE 7 NO 7 ABS _____

TRUTH-IN-SENTENCING

Sentencing Commission Membership

Motion:

Move to modify the membership of the Sentencing Commission to delete one district attorney appointed by the Attorney General and instead provide for one prosecutor appointed by the Attorney General.

Note:

Under the bill, a 21-member Sentencing Commission would be created which includes one district attorney appointed by the Attorney General. This motion replaces the one district attorney member with one prosecutor appointed by the Attorney General.

MO# 215 ④

②	BURKE	Y	N	A
	DECKER	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	ROSENZWEIG	Y	N	A
	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
①	HUBER	Y	N	A
	COGGS	Y	N	A

AYE 14 NO 0 ABS _____

MO# 4201 ³

① BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
② COGGS	Y	N	A

AYE 7 NO 7 ABS

MO# B2 ⁵

① BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
ROSENZWEIG	Y	N	A
② GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 14 NO 0 ABS

ATTACHMENT

**Differing Truth-in-Sentencing Provisions Under
2001 SS AB 1, 2001 Engrossed AB 3 and 1999 SB 357**

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Modification of Bifurcated Sentences	See "Joint Committee on Criminal Penalties, Recommendations Regarding Sentencing Modifications" item.	See "Joint Committee on Criminal Penalties, Recommendations Regarding Sentencing Modifications" item.	<p>Allow a court at any time to modify a bifurcated sentence that the court previously imposed by reducing the term of confinement in prison portion of the sentence and lengthening the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed does not change. Specify that a proceeding to modify a bifurcated sentence be conducted using the procedure established and the factors specified by the Director of State Courts.</p> <p>Specify that by July 1, 2000, the Director of State Courts promulgate rules that establish a procedure by which a sentencing court may modify a bifurcated sentence and that specify the factors that a court may consider when deciding whether to modify a bifurcated sentence. Require that the rules provide that a court may modify a bifurcated sentence on its own motion, on a motion of the Department of Corrections or on a motion of the person serving the sentence. Specify that the rules provide that a court and Corrections may make a motion to modify a bifurcated sentence at any time and that a person serving a bifurcated sentence may make a motion to modify the bifurcated sentence that he or she is serving if at least 12 months have elapsed since the bifurcated sentence was imposed or since the most recent motion to modify the person's bifurcated sentence was made.</p>

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
<p>Joint Review Committee on Criminal Penalties, Recommendations Regarding Sentencing Modifications</p>	<p>Require the joint review committee to submit a report to the Legislature and the Governor, no later than July 1, 2003, containing recommendations regarding standards and procedures to be used by a court to modify a bifurcated sentence. The report would be required to include any proposed legislation that is necessary to implement the recommendations. Any proposed legislation must provide that a bifurcated sentence that a court previously imposed could be modified only by reducing the term of confinement in prison portion of the sentence and lengthening the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed would not change.</p>	<p>Same provision as SS AB 1, except the report would be due no later than six months after the effective date of the bill but before January 1, 2003.</p>	<p>No provision.</p>
<p>General Sentencing Requirements</p>	<p>In sentencing, require the court to consider: (a) the protection of the public; (b) the gravity of the offense; and (c) the rehabilitative needs of the defendant.</p>	<p>Same provision as SS AB 1.</p>	<p>No provision.</p>
<p>Documentation of Sentencing Decision</p>	<p>Require the court to state the reason for its sentencing decision on the record.</p>	<p>Same provision as SS AB 1.</p>	<p>Require the court to make explicit findings of fact on the record to support each element of its sentencing decision, including its decision as to whether to impose a bifurcated sentence or to place a person on probation and its decision as to the length of a bifurcated sentence, including the length of each component of the bifurcated sentence, the amount of the fine and the length of a term of probation.</p>
<p>Court-Ordered Drug Treatment</p>	<p>No provision.</p>	<p>Specify that when the court imposes a sentence or places a person on probation for any offense committed on or after the effective date of the bill, the court may order the person to participate in a drug treatment program as a condition of probation or, while in prison or as a condition of extended</p>	<p>Same provision as Engrossed AB 3, except the provision would be effective for offenses committed on or after July 1, 2000.</p>

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Standard of Review on Appeal	Specify that in an appeal from a court's sentencing decision, the appellate court could reverse the sentencing decision only if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision.	supervision or both. Specify that the court may order Corrections to pay for the cost of drug treatment. Same as SS AB 1.	Specify that in an appeal from a court's sentencing decision, the appellate court is required to reverse the sentencing decision if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision or there is not substantial evidence in the record to support the sentencing decision.
Consecutive and Concurrent Sentences	Create the following definitions: (a) "determinate sentence," a bifurcated sentence or a life sentence under which a person is eligible for release to extended supervision; (b) "indeterminate sentence," a sentence to the Wisconsin state prisons other than a determinate sentence or a sentence under which the person is not eligible for release on parole; and (c) "period of confinement in prison," with respect to any sentence to the Wisconsin state prisons, any time during which a person is incarcerated under that sentence, including any extensions and any period of confinement in prison required to be served as a result of revocation. <i>Determinate Sentence to Run Concurrently with or Consecutive to Determinate Sentences.</i> Specify that if a court provides that a determinate sentence is to run concurrently with another determinate sentence, the person sentenced would be required to serve the periods of confinement in prison under the sentences concurrently and the terms of extended supervision under the sentences concurrently. If a court provides that a determinate sentence is to run consecutive to another determinate sentence, the person sentenced would be required to serve the periods of confinement in prison under the sentences consecutively and the	Same provision as SS AB 1.	Specify that if a court provides that a bifurcated sentence is to run concurrent with or consecutive to a sentence to prison other than another bifurcated sentence, the court is required to do all of the following: (a) order the term of confinement in prison under the bifurcated sentence to be concurrent with or consecutive to the term of confinement in prison required under the nonbifurcated sentence; (b) order the period of parole under the nonbifurcated sentence to be concurrent with or consecutive to the term of extended supervision required under the bifurcated sentence. Specify that if a court imposes a sentence to prison that is not a bifurcated sentence and provides that the nonbifurcated sentence is to run concurrent with or consecutive to a bifurcated sentence, the court is required to do all of the following: (a) order the term of confinement in prison under the nonbifurcated sentence to be concurrent with or consecutive to the term of confinement in prison required under the bifurcated sentence; (b) order the period of parole under the nonbifurcated sentence to be concurrent with or consecutive to the term of extended supervision required under the bifurcated sentence.

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
	<p>terms of extended supervision under the sentences consecutively and in the order in which the sentences have been pronounced.</p> <p><i>Determinate Sentence to Run Concurrently with or Consecutive to Indeterminate Sentences.</i> Specify that if a court provides that a determinate sentence is to run concurrently with an indeterminate sentence, the person sentenced would be required to serve the period of confinement in prison under the determinate sentence concurrently with the period of confinement in prison under the indeterminate sentence and the term of extended supervision under the determinate sentence and the parole portion of the indeterminate sentence. If a court provides that a determinate sentence is to run consecutive to an indeterminate sentence, the person sentenced would be required to serve the period of confinement in prison under the determinate sentence consecutive to the period of confinement in prison under the indeterminate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.</p> <p><i>Indeterminate Sentence to Run Concurrently with or Consecutive to Determinate Sentences.</i> Specify that if a court provides that an indeterminate sentence is to run concurrently with a determinate sentence, the person sentenced would be required to serve the period of confinement in prison under the indeterminate sentence concurrently with the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence concurrently with the term of extended supervision required under the determinate sentence. If a court provides that an indeterminate sentence is to</p>		

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
	<p>run consecutive to a determinate sentence, the person sentenced would be required to serve the period of confinement in prison under the indeterminate sentence consecutive to the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.</p> <p>Revocation in Multiple Sentence Cases. Specify that if a person is serving concurrent determinate sentences and extended supervision is revoked in each case, or if a person is serving a determinate sentence concurrent with an indeterminate sentence and both extended supervision and parole are revoked, the person must concurrently serve any periods of confinement in prison required under those sentences.</p> <p>No Parole. Clarify that a person serving a bifurcated sentence is not eligible for release on parole under that sentence. (A person may be paroled under an indeterminate sentence running concurrently or consecutively with the bifurcated sentence.)</p>		

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Consecutive Sentence Computation	Specify that all consecutive sentences for crimes committed before December 31, 1999, be computed as one continuous sentence, and specify that all consecutive sentences imposed for crimes committed on or after December 31, 1999, be computed as one continuous sentence.	Same provision as SS AB 1.	No provision.
Felony Threshold for Certain Offenses	Lower the felony thresholds for the following crimes to \$1,000 from \$2,500: (a) criminal damage to property; (b) graffiti; (c) theft; (d) fraud on hotel or restaurant keeper or taxicab operator; (e) receiving stolen property; (f) fraudulent insurance and employee benefit claims; (g) financial transaction card crimes; (h) retail theft; (i) theft of library materials; and (j) issuing a worthless check. Lower the felony threshold for unlawful receipt of loan payments to \$500 from \$2,500. Finally, lower the Class E felony range for property damage to a vending machine from \$500 to \$2,500, to \$500 to \$1,000. (The higher thresholds were enacted in 2001 Act 16.)	Maintain current law in effect at the time of introduction, (a \$500 to \$1,000 threshold for applicable offenses).	Increase the threshold from current law in effect at the time the bill was introduced (\$500 to \$1,000) to \$2,000 for the applicable offenses.
Mandatory Minimum Sentences and Probation Prohibitions for Repeat Serious Sex Crime and Serious Violent Crimes	Maintain current law provision, but reduce the minimum applicable sentence length from five years to three years six months.	Same provision as SS AB 1.	Repeal the provision.
Intentionally Causing Bodily Harm to an Unborn Child By Conduct that Creates a Substantial Risk of Great Bodily Harm	Maintain the felony charge.	Same provision as SS AB 1.	Repeal the provision.

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Medical Release	Allow an inmate to request release from prison, if the inmate has a terminal condition. Define "terminal condition" as an incurable condition afflicting a person, caused by injury, disease, or illness, as a result of which the person has a medical prognosis that his or her life expectancy is six months or less, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.	Same provision as SS AB 1.	No provision.
Consolidation of Extended Supervision Revocation Proceedings	Allow proceedings related to the same person to be consolidated.	Same provision as SS AB 1.	No provision.
Videotape Deposition as Extended Supervision Revocation Proceedings	Allow the use of videotaped depositions in hearings.	Same provision as SS AB 1.	No provision.
Effectiveness of Probation, Parole and Extended Supervision	No provision.	No provision.	Require Corrections to take steps to promote the increased effectiveness of probation, extended supervision and parole in Brown, Dane, Kenosha, Milwaukee, Racine and Rock counties. Require that in each of these counties, Corrections, beginning on January 1, 2001, develop a partnership with the community, have strategies for local crime prevention, supervise offenders actively, commit additional resources to enhance supervision and purchase services for offenders, establish day reporting centers and ensure that probation, extended supervision and parole agents, on average, supervise no more than 20 persons on probation, extended supervision or parole. Require Corrections beginning no later than July 1, 2000, to begin reducing caseloads in these counties. Require Corrections to develop a plan for implementing the provisions no later than May 1, 2000, to be submitted to the Joint Committee on Finance.

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Sentencing Commission Membership	Commission consisting of 21 members, including seven public members.	Same provision as SS AB 1.	Commission consisting of 20 members, including six public members.
Sentencing Guidelines Adopted As Administrative Rules	Provide that guidelines and standards adopted by the Commission would not be subject to the administrative rules process.	Same provision as SS AB 1.	Provide that guidelines and standards adopted by the Commission would be subject to the administrative rules process.
Effective Date	Penalty provisions generally become effective on the first day of the seventh month after publication, to first apply to offenses committed on the effective date.	Same as SS AB 1.	Penalty provisions generally become effective on the effective date of the bill.

Financial Institutions

(LFB Summary of the Governor's Budget Reform Bill: Page 45)

LFB Summary Item for Which an Issue Paper Has Been Prepared

Item #

Title

1

Program Revenue Lapse (see Paper #1121)

Workforce Development

(LFB Summary of the Governor's Budget Reform Bill: Page 108)

LFB Summary Item for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	3.5% and 5.0% Budget Reductions (see Paper #1120)

3 Moore motions here

WORKFORCE DEVELOPMENT

Early Childhood Excellence Initiative

Motion:

Move to require the Department of Workforce Development (DWD) to conduct a deobligation and reobligation process for contracts awarded under the early childhood excellence initiative that will expire on June 30, 2002. In addition, specify that \$2,500,000 allocated for the early childhood excellence initiative in 2002-03 must be allocated to early childhood excellence centers and not for grants to child care providers that have received training from early childhood excellence centers.

Note:

The early childhood excellence initiative was created in the 1999-01 biennial budget and required DWD to develop at least five early childhood centers for children who are eligible for assistance under the TANF program. The initiative also required DWD to establish a grant program for child care providers that received training from early childhood excellence centers in order to create additional early childhood excellence centers. A total of \$15 million was available to be distributed through December, 2001. Of the \$15 million allocation, a total of \$10.2 million had been spent as of November, 30, 2001. Because not all funds had been spent by December, 2001, and no new funding was available in fiscal year 2001-02, DWD extended the contracts through June, 2002.

When DWD extended the early childhood excellence contracts, it did not deobligate funds from underspending agencies and place them in agencies whose funds had been exhausted or nearly exhausted. The motion would require DWD to conduct a deobligation and reobligation process in order to allow all agencies to continue providing services through June 30, 2002.

For 2002-03, a total of \$2.75 million is allocated for the early childhood excellence initiative, Act 16 designated \$250,000 of these funds to La Causa, Inc., in Milwaukee. The motion would specify that the remaining \$2.5 million be used only for early childhood excellence centers and not for grants to child care providers that have received training from early childhood excellence centers.

MO# 125

②	BURKE	Y	N	A
	DECKER	Y	N	A
①	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	ROSENZWEIG	Y	N	A

	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	HUBER	Y	N	A
	COGGS	Y	N	A

Rhoades

recused

AYE 10 NO 5 ABS _____

WORKFORCE DEVELOPMENT

Wisconsin Works (W-2) Employment System Access Coordination and
Independent Participant Advocacy Services

Motion:

Move to require the Department of Workforce Development (DWD) to submit a plan and proposed source of funds for employment system access coordination and independent participant advocacy services to the Joint Committee on Finance, in time for the fourth quarterly meeting of the Committee in June, 2002. Specify that DWD shall not implement these services without approval by the Joint Committee on Finance. In addition, require DWD to make funds from the W-2 administrative/services contracts allocation and non-state funds the priority sources of funding for these contracts.

Note:

DWD created the Milwaukee W-2 Advisory Panel in March, 2001, to provide recommendations for improving the effectiveness of the W-2 program in Milwaukee County. Two key recommendations of the panel include: (a) providing a navigator at the beginning of the W-2 intake process, called the employment system access coordinator, to help participants identify and access the services they need and choose an appropriate W-2 agency; and (b) providing an independent participant advocate to provide advocacy and mediation services to W-2 participants. DWD submitted a request under s. 16.54 in October, 2001, to fund the employment system access coordinator role, but the request was withdrawn.

The motion would require DWD to submit a plan and proposed funding source for employment system access coordination and independent participant advocacy services to the Joint Committee on Finance for its June, 2002, meeting. The Department would not be permitted to implement these services prior to approval by the Committee. In addition, DWD would be required to make the W-2 contracts administration/services allocation and non-state funding the priority sources of funding for these services.

MO# 200

② BURKE	Y	N	A
DECKER	Y	N	A
① MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

Rhodes

AYE 8 NO 8 ABS _____

WORKFORCE DEVELOPMENT

Retroactive W-2 Benefits for Applicants

Motion:

Move to specify that Wisconsin Works (W-2) applicants who were denied benefits or were placed in an inappropriate W-2 employment position and successfully petitioned the W-2 agency or Department of Workforce Development (DWD), would be eligible for W-2 cash benefits or increased benefits beginning on the day the application was denied in whole or in part or on the day the individual began participation in an inappropriate W-2 position. Specify that this provision would take effect on the first day of the sixth month beginning after publication of the bill.

Note:

Under current law, an individual may petition a W-2 agency if the individual's application is not acted upon by the W-2 agency with reasonable promptness or the application is denied in whole or in part. If the W-2 agency or DWD determines that the individual was eligible or was placed in an inappropriate W-2 employment position, the W-2 agency is required to place the individual in the first available W-2 position that is appropriate for that individual. An individual is eligible for cash benefits beginning on the day that the individual begins participation in the assigned employment position.

The motion would modify the date successful petitioners would be eligible for cash benefits. The motion would allow individuals to be eligible for cash benefits beginning on the day the application was denied, instead of beginning on the day that the individual begins participation in the assigned employment position. Retroactive payment would also be provided in cases where the W-2 agency or Department decides that the applicant was placed in an inappropriate W-2 position.

The motion would increase cash benefit payments by an unknown amount. Since the motion does not provide additional funding, W-2 agencies would be required to absorb any additional costs within their W-2 agency contract allocations.

MO# 309

②	BURKE	Y	N	A
	DECKER	Y	N	A
①	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	ROSENZWEIG	Y	N	A
	GARD	Y	N	A
	KAUFERT	Y	N	A
<i>Charles</i>	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	HUBER	Y	N	A
	COGGS	Y	N	A

AYE 8 NO 8 ABS _____

