

AB578

Thank you for allowing me to testify today.

First I would like to thank Representative Joe Liebham for introducing Assembly Bill 578. I would also like to thank Representative Steve Kestell and Senator Jim Baumgart who also represent Sheboygan County, for their support of this Bill. Passage of Assembly Bill 578 would be a great benefit to our jail staff as well as the inmates, both adult and juvenile by allowing the court to release the findings of a competency evaluation report to the Sheriff or jailer. Under current law an inmate is sent by a Judge to be evaluated for competency. After that evaluation has been completed that individual is then returned to the County Jail either from Winnebago or Mendota Mental Health Facilities. At that time we are not made aware of whether the inmate has been found competent or incompetent to stand trial. The psychologists report is then sent to the Court and at the time of the inmates next hearing which could be 5 to 14 days after his release from the mental health facility, that information is made available to the defense and prosecution.

This lag time causes the potential for undo harm to the jail staff and also the inmate by not being properly classified in the jail. Jail classification is used to

identify the level of risk presented by newly admitted inmates based on the use of valid and reliable information. One of the most valuable pieces of information in classifying an inmate is the inmate's mental health. Every jail in the State of Wisconsin wants to insure that they are able to identify and separate predators and potential victims and allow for appropriate staffing when crowded conditions require the mixing of inmates. Without knowing the mental health status of some of our inmates we are putting everyone in our jails at risk. Over the past year we have had approximately 20 adult inmates and 2 juvenile inmates that were sent for competency evaluations. Out of those 22 cases that information on their competency was not made available until after their hearing, therefore putting everyone in our jail in harms way.

I would like to thank you for your time today and hope that you find the passage of this bill as important as we in law enforcement do.

Thank you



Joseph K. Leibham

STATE REPRESENTATIVE • 26TH DISTRICT

TESTIMONY OF STATE REPRESENTATIVE JOE LEIBHAM

(Author of Assembly Bill 578)

- Tuesday, March 5, 2002 -

Good morning Chairman George and Committee members. Thank you for your willingness to hear testimony on Assembly Bill 578 (AB 578).

Late last year, Sheboygan County sheriff, Loni Koenig contacted me with her concerns regarding sheriffs and jailers access to competency exam results. She asked that I work with her and other sheriffs and jailers across the state, to help draft legislation that would allow for access to competency examination reports, upon request, for sheriffs and jailers. Assembly Bill 578 would do just that.

Under current law, a person may not be tried, convicted or sentenced for the commission of a crime if the person lacks substantial mental capacity to understand the proceedings or assist in his or her own defense. If a court has reason to doubt a defendant's competency, the court appoints an expert to examine and file a report on the defendant's mental condition. Upon receiving a copy of the report, the court then distributes copies to the district attorney prosecuting the case and the criminal defendant and/or his or her legal counsel. The report, under current law, may not be otherwise disclosed before a hearing to determine the competency of the defendant.

Specifically, the bill before you today would direct courts to provide a copy of a competency examination report to the sheriff or jailer charged with care and control of the jail in which a defendant is being held pending or during a trial or sentencing proceeding. Access to the competency examination report would be available **ONLY** upon request by the sheriff or jailers office. Sheriff Koenig and I believe that access to such information would benefit sheriffs, jailers *and* defendants. Access to these examination reports would allow those, whose responsibility it is to oversee the well being of the staff as well as *all* criminal defendants in custody at facilities around the state. Furthermore, access to these reports will help sheriffs and jailers to better determine the proper care that may be required for individuals who have completed a competency exam.

Simply put, access to the results of competency exams would allow for sheriffs and jailers to have a better understanding of the needs of criminal defendants in their jails. In knowing the results of these exams, law enforcement officials will be better able to determine and assess the mental state of criminal defendants and whether or not they pose any harm to those around them and most importantly, to themselves. I am pleased with the bi-partisan support of this legislation, which includes the entire Sheboygan County legislative contingent. AB 578 passed unanimously the out of the Assembly on February 5, 2002. Additionally, I have contacted the Department of Corrections and they have expressed their department's support for this legislation, in that it allows for law enforcement officials to better serve and protect all individuals.

In closing, I would again, like to thank you for scheduling Assembly Bill 578 for a public hearing and allowing me to testify before you this morning. I am pleased to present testimony on behalf of Sheboygan County sheriff, Loni Koenig and Washington County sheriff, John (Jack) Theusch. Again, thank you for your time and attention to this bill, Chairman George and Committee members. I would be happy to answer any questions on this important, commonsense piece of legislation. Thank you.



WASHINGTON COUNTY SHERIFF'S DEPARTMENT

JOHN (JACK) THEUSCH, SHERIFF

Dedicated to Serve

October 5, 2001

OCT 08 2001

Representative Mickey Lehman
State Capitol
P. O. Box 8952
Madison, WI 53708-8952

Dear Mickey,

I have reviewed your correspondence regarding LRB 3533/1 access for sheriffs and jailers to reports regarding competency of criminal defendants.

I believe that this piece of legislation is extremely important to law enforcement and especially to the corrections facility. I am sure in other counties as in Washington County, the Inpatient Mental Health Center is releasing more and more people on medication who have been evaluated to be a risk of attempting suicide but who are not held in-house. In a lot of those cases, those persons end up back in the corrections facility and with no specific information as to a threat level and with no other information regarding the persons volatility, it makes it extremely difficult for law enforcement to deal with these individuals.

In a day when public safety, which should include law enforcement personnel, is a major issue, I believe it is extremely important for all information that can be known about someone be accessible in order to provide for the highest level of security possible. We have to certify people's condition when we transfer from law enforcement agency to law enforcement agency and I believe it is only appropriate when we know the threat level that people are to themselves or to society when dealing with them.

If you have any questions, feel free to contact me.

Sincerely,


Jack Theusch
Sheriff

JGT/gd

cc: Representative Leibham