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(FORM UPDATED: 08/11/2010)

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

**2011-12**

(session year)

**Senate**

(Assembly, Senate or Joint)

**Committee on ... Labor, Public Safety, and Urban  
Affairs (SC-LPSUA)**

**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) (July/2012)

## Senate

### Record of Committee Proceedings

#### **Committee on Labor, Public Safety, and Urban Affairs**

##### **Senate Bill 57**

Relating to: corrections and sentencing.

By Senators Wanggaard, Leibham, Moulton, Zipperer and Galloway; cosponsored by Representatives Suder, Krug, Jacque, Petersen, Spanbauer, Ziegelbauer, Steineke, Severson, T. Larson, Kestell, Mursau, Thiesfeldt, LeMahieu, Strachota, Kleefisch, Murtha, Endsley, Marklein, Rivard, Honadel, Bies, Kaufert, Stone, Brooks, Petryk, Ripp and Knodl.

April 08, 2011            Referred to Committee on Labor, Public Safety, and Urban Affairs.

May 5, 2011            **PUBLIC HEARING HELD**

Present:    (5)    Senators Wanggaard, Grothman, Lazich, S.  
   Coggs and Wirch.  
Absent:    (0)    None.  
Excused:   (0)    None.

##### Appearances For

- Scott Suder — Representative, 69th Assembly District
- Van Wanggaard — Senator, Sen., 21st Senate District
- Gary Hamblin — Secretary, Wisconsin Department of Corrections
- Tony Streveler — Wisconsin Department of Corrections
- John Vose — MADD
- Gerald Urbik
- Mike Crivello — Milwaukee Police Association
- Nancy Bryan — MADD

##### Appearances Against

- Ed Steichen
- Ester Heffernan — Edgewood College
- Cord Klein
- Joseph Elwanger — MICAH-WISDOM
- Loyd Hubbard — MICAH
- Willie Love — Voices Beyond Bars
- Wayne Murphy — Voices Beyond Bars

##### Appearances for Information Only

- None.

Registrations For

- J.B. Van Hollen — Attorney General, Wisconsin Department of Justice
- Toni Etter

Registrations Against

- Lena Taylor — Senator, 4th Senate District
- Jim Green
- Mary Jenny — WI Network for Peace and Justice

Registrations for Information Only

- None.

May 10, 2011

**EXECUTIVE SESSION HELD**

Present: (5) Senators Wanggaard, Grothman, Lazich, S. Coggs and Wirch.  
Absent: (0) None.  
Excused: (0) None.

Moved by Senator Wanggaard that **Senate Bill 57** be recommended for passage.

Ayes: (3) Senators Wanggaard, Grothman and Lazich.  
Noes: (2) Senators S. Coggs and Wirch.

PASSAGE RECOMMENDED, Ayes 3, Noes 2

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Colleen Moran  
Committee Clerk



**Van H. Wanggaard**  
Wisconsin State Senator

TO: Senator Van Wanggaard  
Member, Senate Committee on Labor, Public Safety, and Urban Affairs

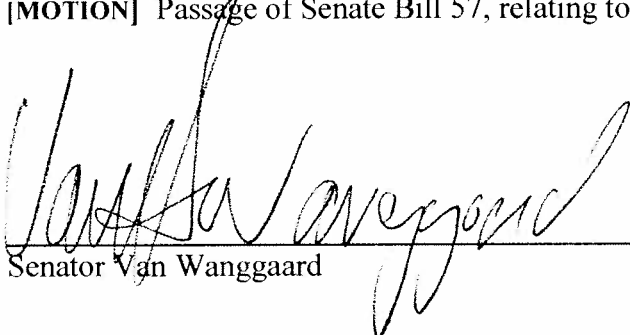
FROM: Senator Van Wanggaard, Chair

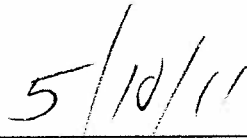
DATE: May 10, 2011

SUBJECT: Ballot for passage of Senate Bill 57

Please review the motion(s) and indicate your approval by signing your name, inserting the date, and circling "Aye" or "No" below. If this ballot is not returned to Senator Wanggaard's office in Room 319 South by Tuesday, May 10, 2011 at 11:00 a.m., you will be designated as not voting. Thank you.

[MOTION] Passage of Senate Bill 57, relating to corrections and sentencing.

  
\_\_\_\_\_  
Senator Van Wanggaard

  
\_\_\_\_\_  
Date

AYE     NO

Serving Racine County - Senate District 21



**Van H. Wanggaard**  
Wisconsin State Senator

TO: Senator Glenn Grothman  
Member, Senate Committee on Labor, Public Safety, and Urban Affairs

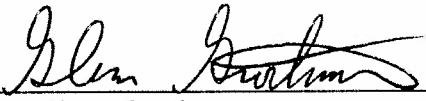
FROM: Senator Van Wanggaard, Chair

DATE: May 10, 2011

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[MOTION] Passage of Senate Bill 57, relating to corrections and sentencing.

  
\_\_\_\_\_  
Senator Glenn Grothman

5/10/11  
\_\_\_\_\_  
Date

AYE     NO

Serving Racine County - Senate District 21



**Van H. Wanggaard**  
Wisconsin State Senator

TO: Senator Mary Lazich  
Member, Senate Committee on Labor, Public Safety, and Urban Affairs


FROM: Senator Van Wanggaard, Chair

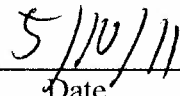
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[MOTION] Passage of Senate Bill 57, relating to corrections and sentencing.

  
\_\_\_\_\_  
Senator Mary Lazich

  
\_\_\_\_\_  
Date

AYE       NO

Serving Racine County - Senate District 21



**Van H. Wanggaard**  
Wisconsin State Senator

TO: Senator Spencer Coggs  
Member, Senate Committee on Labor, Public Safety, and Urban Affairs

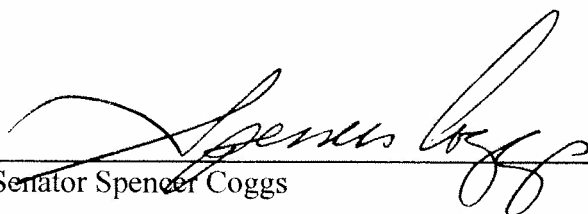
FROM: Senator Van Wanggaard, Chair

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[MOTION] Passage of Senate Bill 57, relating to corrections and sentencing.

  
\_\_\_\_\_  
Senator Spencer Coggs

5-10-11  
\_\_\_\_\_  
Date

AYE  NO

Serving Racine County - Senate District 21



**Van H. Wanggaard**  
Wisconsin State Senator

TO: Senator Robert Wirsch  
Member, Senate Committee on Labor, Public Safety, and Urban Affairs

FROM: Senator Van Wanggaard, Chair

DATE: May 10, 2011

SUBJECT: Ballot for passage of Senate Bill 57

Please review the motion(s) and indicate your approval by signing your name, inserting the date, and circling "Aye" or "No" below. If this ballot is not returned to Senator Wanggaard's office in Room 319 South by Tuesday, May 10, 2011 at 11:00 a.m., you will be designated as not voting. Thank you.

[MOTION] Passage of Senate Bill 57, relating to corrections and sentencing.

Robert Wirsch                      May 10, 2011                      AYE  NO

Senator Robert Wirsch                      Date

Serving Racine County - Senate District 21





3161 N. M. L. King Dr. #4012  
Milwaukee, WI 53212  
414-263-4482

May 3, 2011

Representative Garey Bies  
Room 125 West  
State Capitol  
P. O. Box 8952  
Madison, WI 53708

SB 57  
folder

Dear Representative Bies:

Thank you again for meeting with us on Thursday, April 28, 2011.

I promised to send you a copy of the information I received on March 22, 2011 from Tony Strevelar. At that time 467 inmates had been released to community supervision.

This a.m. on Public Radio (WUWM - 89.7 FM) the figures given were 526 released with 29 sent back for violations. This equals a 95% success rate or 5% recitivism. Those 5% most likely did not all reflect new crimes but some technical violations of their parole.

Compare this recitivism rate to the rate of inmates who recitivate when they are released at the end of their entire sentence and calculate the savings in bed days and costs. It is obviously a successful, cost effective program.

It appears those who are adamant about cancelling "earned" or "early" release have not been provided with actual data. I'm sure Tony Strevelar can provide you with answers to the questions you had when we visited with you.

If you need our support, please contact myself, Rev. Joseph Ellwanger, or Conor Williams. This is a much needed program in Milwaukee and across the State of Wisconsin.

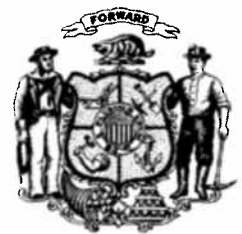
Sincerely,



Rose Stietz, O.P.  
MICAH AODA Treatment Committee



# WISCONSIN STATE LEGISLATURE



From: Joe Ellwanger <joe.ellwanger@gmail.com>  
Subject: **Earned Release Policy**  
Date: May 5, 2011 8:40:29 AM CDT  
To: Members of the State Assembly Corrections Committee

SB 57  
folder

My name is Joseph Ellwanger. I am a retired Evangelical Lutheran Church in America pastor. In my retirement I am working as an organizer for MICAHA in Milwaukee and WISDOM in Wisconsin, a network of congregation-based organizing affiliates.

I served all 44 years of my parish ministry as an urban pastor, which means that I walked with many people at the edges of society, including persons in prison and the children and spouses of those persons. I helped to found Project RETURN, a reentry ministry in Milwaukee that has placed hundreds of persons coming out of prison, into jobs and into support groups, to empower them to make a positive, permanent return to their families and their communities.

So I approach this proposed repeal of the earned release policy from a very closeup, existential perspective.

I find it difficult to believe that the Wisconsin state legislature would even consider repealing the earned release policy. Why would the legislature even consider repealing it?

To make our communities safer? It's the rehabilitative programs inside the prisons and the reentry programs available immediately upon release, and the attitude of the former offender, that make our communities safer, not the day, the month, or the year that a person is released.

To save our state money, at this time of a budget crisis? Definitely not. Repealing the earned release policy will cost Wisconsin taxpayers millions of dollars at the very time that our children and our elderly will have the quality of their lives reduced because of proposed budget cuts.

To hold prisoners accountable and show them that the state of Wisconsin's correctional system is a no-nonsense system that doesn't budge one day from the length of the original sentence? Prisoners have the message of "no-nonsense" seared into their minds and their spirits every day, as they spend days or weeks in solitary for the infraction of a rule and as they controlled by a set of rules that is enforced by no-nonsense guards. Accountability comes not from holding prisoners to the last day of their sentence, but from programs that push inmates to come to grips with the demons that caused them to get sucked into an addiction, into a criminal way of thinking, into a certain negative culture or negative peer group.

Why would the legislature retain the earned release policy?

The very existence of an earned release policy communicates to the prisoner that the state of Wisconsin expects inner accountability and change and transformation. It tells the inmates that the state of Wisconsin is not looking for a pound of flesh. It is looking for a changed person who is in touch with their gifts and their potential and is ready to contribute to the good of our community.

There may be 10 or 15 per cent of the state's prisoners that none of us would want released into our communities any sooner than necessary. Hold them to the end of their sentences. They wouldn't be eligible for earned release.

But the 80 to 85 per cent of the prisoners in Wisconsin's prisons who are there because of underlying alcohol and other drug abuse addictions or because of mental health issues or because of one-time bad choices, are motivated by an earned release policy, to do something positive with their lives while they are in the system and to prepare themselves for a productive life when they get out.

Repealing the earned release policy would be a terrible step backward for the state of Wisconsin. Maintaining the policy would be a way of moving forward--a message to the 23,000 prisoners, to their children and spouses, to the Dept. of Corrections, to the prison guards, to the judges, to the productive citizens of Wisconsin: We expect the best from you while you are in prison, and we expect the best from you when you get out. We really do.



Assembly Committee on Criminal Justice and Corrections  
Senate Committee on Labor, Public Safety and Urban Affairs  
411 South 11 a.m. May 5, 2011

SB 57  
folder

JOINT HEARING ON ASSEMBLY BILL 86

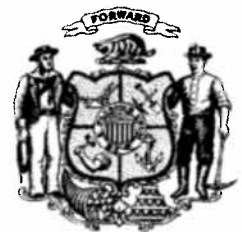
I appreciate the opportunity to speak before the committee. My name is Esther Heffernan. I have served as a citizen member on the earlier Wisconsin Legislative Council's Task Force on the Revision of the Criminal Code, and the later Task Force on Community Corrections, as well as been a consultant on prison programs for the Federal Bureau of Prisons, the Alaska Department of Corrections, and the Federal Accounting Office. As the co-director of the LEAA National Study of Co-Corrections we examined administrative dynamics in a range of facilities in adapting disciplinary controls as a result of the introduction of co-corrections. While developing the criminal justice program at Edgewood College, I have been a thirty-year member of the American Correctional Association.

I have been concerned that generally Assembly Bill 86 has been described as an effort to repeal the provisions of Wisconsin Act 28 that permitted the "early release" of prisoners rather than using its actual designation as an Earned Release program based precisely on the earning release as a consequence of good behavior. I think that when you are reconsidering Wisconsin Act 28 it is critical for you to be aware of the implications of your actions. When the national Truth in Sentencing legislative movement developed correctional professionals voiced their concern that it would affect one of the major incentives for good behavior in prison—the possibility of earning a shortened sentence. Correctional personnel, in discussions of Wisconsin's potential legislation, were alarmed by the possible consequences of losing a major source of behavioral control. While I have not done a statistical analysis of the relationship between the implementation of the Truth in Sentencing legislation and the multiple factors involved in the increasing need for segregation units for disciplinary purposes, one of the results has been the present necessity of the very expensive provision of the Wisconsin Secure Program Facility at Boscobel for the segregation overflows from other institutions.

While the present Wisconsin Act 28, with the provision for earned release as an incentive for good behavior is a very limited effort to respond to some of the consequences of the Truth in Sentencing Act, it does provide one step forward. Unfortunately neither Truth in Sentencing legislation nor the Earned Release Act provides those resources—housing, employment, counseling and family support—needed for a successful re-entry and public safety. Thank you.



# WISCONSIN STATE LEGISLATURE



**Testimony of Department of Corrections Secretary Gary Hamblin**  
**Senate Committee on Labor, Public Safety & Urban Affairs**  
**Assembly Committee on Criminal Justice & Corrections**  
**May 5, 2011**

Good morning Chairperson Wanggaard, Chairperson Bies, and members of the Committees. As Secretary of the Wisconsin Department of Corrections, I appreciate the opportunity to come here today to testify in support of Senate Bill 57 and Assembly Bill 86.

Recently, for the first time in the history of the Department, the number of adult inmates in our institutions has begun to go down. The decrease has been relatively small and has not been sustained for a long period of time. However, we are confident that with the tools the Governor has given us in his proposed budget we can continue to work with our community criminal justice partners to further reduce repeat crime and lower the number of inmates returning to prison. By doing that, we can reduce the number of new crime victims while holding down costs.

Our hope is that the current downward trend in the prison population continues. We are projecting a conservative monthly decrease of point one six percent (.16%) in male inmates and a point zero five percent (.05%) drop in female inmates.

We do not yet know the exact reasons for this downward trend in the prison population. An aging population and better local programs may be playing a role. However, I believe a key factor in the trend is our continued focus on reentry. At Corrections, reentry is the ongoing emphasis to help offenders prepare themselves to be successful after release back into their communities -- and 97% of our population does get released.

Under the previous biennial budget, a set of complicated sentencing reforms in 2009 Wisconsin Act 28 was passed. The goal of these reforms was to save money by releasing offenders back into the community before the completion of their prison sentences. But, with only 526 offenders released under the reforms, this failed experiment has produced little or no savings and has been confusing to crime victims and the public. By restoring the transparency in Truth in Sentencing, these companion bills put public safety first and move the decision to release an offender from a third-party back to the sentencing court -- where it belongs.

The Department has had the opportunity to thoroughly analyze the components of each of the bills before you today. While we support the legislation, we respectfully submit some technical adjustments for your consideration. We have discussed our proposed changes with the authors of the bills, and believe they would bring the bills into better alignment with the original intent of Truth-in-Sentencing.

Allow me to outline each of our suggestions now, starting with the Earned Release and Challenge Incarceration Programs.

**Earned Release and Challenge Incarceration Programs**

Under the sentencing reforms passed in 2009 Wisconsin Act 28, the Department is allowed up to six working days to release an inmate who completes the Earned Release Program (ERP) or Challenge



Incarceration Program (CIP) after receipt of a court order modifying the inmate's bifurcated sentence. AB 86 and SB 57 repeal would repeal that.

We recommend that the language giving the Department six working days to prepare for an ERP or CIP inmate's release be maintained for the following reasons:

- Unlike other types of general population inmate releases, we do not know the actual date of a CIP/ERP inmate release because the court has 30 days to mail or fax the amended judgment of conviction.
- Pre-Act 28 law requires that after receipt of the amended judgment of conviction, the Department had to release the inmate "as soon as possible without delay", a phrase which has been interpreted to mean within two days.
- Allowing six working days gives the Department time to better prepare the inmate for release into the community. That includes making the necessary arrangements for housing, transportation, electronic monitoring, a release account, and coordinating the release with the agent or law enforcement officials.

### **Risk Reduction Sentence (RRS)**

The next recommendation involves the Act 28 reform called the Risk Reduction Sentence or RRS.

Under current Act 28 language, DOC is the releasing authority for inmates with a RRS and modifies the inmate's sentence to reduce the amount of confinement time remaining at the time of release. AB 86 and SB 57 maintain this language for approximately 1,400 inmates who receive a RRS sentence prior to the effective date of the bills' passage. We recommend changing the language so the sentencing court becomes the releasing authority.

We also suggest the release process follows that of an ERP or CIP inmate. In those cases, the DOC provides notice to the sentencing court that the inmate has met the program requirements and then the court modifies the inmate's sentence without a hearing.

Like our recommendation for ERP and CIP releases, we also request language that would allow the Department six working days to properly prepare the inmate for release from prison.

Overall, this change in the RRS language is consistent with other proposed changes in the bills that take the decision to release an inmate away from Corrections or the Earned Release Review Commission and place it back with the courts.

### **Positive Adjustment Time – Retroactive Time Earned**

Another requested change involves the Act 28 reform called Positive Adjustment Time or PAT. AB 86 and SB 57 repeal PAT, but allow inmates who may have earned PAT retroactively to petition the sentencing court for a sentence adjustment based on the time earned. The current proposed language requires the Department to "determine" if an inmate has earned PAT during their period of confinement.

This involves staff completing lengthy and complicated calculations, determinations and assessments and supplying the documentation to the inmate before he or she can petition the court.

We recommend a change to the proposed language to help streamline that case-determination process, allowing the inmate to more readily petition the sentencing court for possible earned release. This recommendation uses the process intended under Truth in Sentencing 1 and 2 and streamlines sentence calculations. We have suggested language to accomplish this technical change and would be happy to share that with you.

### **Early Discharge from Probation**

Finally, AB 86 and SB 57 both repeal early discharge from probation. Persons would be required to serve their entire term of probation. We recommend that some capacity be maintained to allow the court to early discharge persons from probation and that minimal criteria be added in order to be eligible for early discharge. The recommended criteria would require that:

- All court ordered conditions and DOC rules of supervision have been met;
- The offender has fulfilled all financial obligations to the victim or victims, the court, Corrections and;
- Any enrolled victim be notified and have an opportunity to provide direct input to the sentencing court.

We believe if an offender has complied with all conditions of supervision, fulfilled all financial obligations and has served a minimum amount of supervision that an early discharge can be an incentive to reinforce supervision compliance. It would also allow the Department to use agent time more efficiently by focusing our resources on those who pose the greatest risk to the community.

Under this recommendation, the Department may petition the sentencing court to modify an offender's period of probation and discharge the person from probation if he or she has completed at least 50 percent of his or her period of probation *and* has met the required criteria.

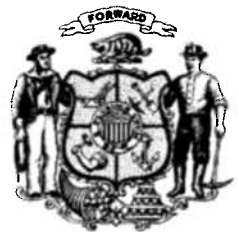
As is current Department policy, victims enrolled with our Office of Victim Programs and Services will be notified of the offender's change in status should the sentencing court approve the early discharge request.

In closing, I believe the proposed legislation and recommendations I have just outlined will allow the Department of Corrections to continue to execute its key mission of public safety, and do it efficiently. Wisconsin residents expect their government will do everything in can to protect them and reduce crime. They also expect us to be careful about spending their hard-earned tax dollars. I believe we can accomplish those goals if these bills with modifications are passed.

Thank you for giving me this time today and I will do my best now to answer any questions you might have.



# WISCONSIN STATE LEGISLATURE



TO: Rep. Gary Bies, Chair – Committee on Criminal Justice and Corrections

FROM: Barbara Hussin, 1016 E. Quarles Pl., Milwaukee WI  
On behalf of the League of Women Voters of Wisconsin

DATE: May 5, 2011

RE: Public Hearing – AB86/SB57

The League of Women Voters continues to view the Corrections Budget with concern having watched expenditures almost double in the past ten years and still see little change in the 2011 proposed budget. Wisconsin's move to base public safety policy on increased prison sentencing while virtually ignoring rehabilitation and community corrections has put us on a path of unsustainable costs.

A great number of other states are developing strategies to make wiser use of criminal justice funds and our state needs to change its direction and join that effort. We hope that will be part of the effort of this legislature.

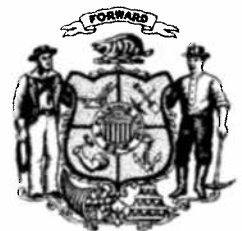
Although the Earned Release Program has been underway for a short time, we believe it was a move in the right direction and should be continued. Compared to the costs of incarceration the funding for this is small, but the program is an important and successful shift in the effort to promote rehabilitation and lower prison populations without harming public safety.

We do not understand the rationale of a budget which projects a lowering prison population to justify cuts in funding, while at the same time removing programs that actually do lower prison population.

We ask you not to support AB86/SB57 and the ill-advised repeal of the Earned Release Program.



# WISCONSIN STATE LEGISLATURE





**John Vose**

**Leadership Chair**

**Wisconsin Affiliate of Mothers Against Drunk Driving**

**Before the Assembly Committee on Criminal Justice and Corrections and Senate**

**Committee on Labor, Public Safety, and Urban Affairs**

**Testimony in Support of Assembly Bill 86**

**5 May 2011**

Thank you Chairman Bies and Chairman Wanggaard and members of the committees for the opportunity to submit testimony in support of Assembly Bill 86 and Senate Bill 57 ending the early release program in Wisconsin. My name is John Vose, Leadership Chair, of the Wisconsin Affiliate of Mothers Against Drunk Driving, or MADD.

MADD thanks Majority Leader Suder and Senator Wanggaard for authoring this important legislation. Assembly Bill 86 and Senate Bill 57 will help end a dangerous practice that allows for convicted felons—some of which are convicted drunk drivers—to be released earlier than usual from Wisconsin correctional facilities.

According to a Legislative Council memo, at least 34 offenders with multiple OWI offenses on their record were released early as a result of the early release program. This may not seem like a big number but this program undermines Wisconsin's current OWI law and creates a loophole in our drunk driving laws. The allowance of this continued practice provides for the potential for more offenders to get out early and sends a mixed message to where Wisconsin stands on drunk driving. MADD urges this committee to advance legislation to put an end to this practice.

MADD believes lawmakers must do more address the drunk driving epidemic in Wisconsin as this violent crime still poses a very serious threat to Wisconsinites:

- In 2009, 213 people were killed in drunk driving crashes in Wisconsin and 3,793 people were injured in 6,429 alcohol related crashes.
- In Wisconsin, there are 33,166 three time convicted drunk drivers and 5,042 with five or more convictions.
- In Wisconsin, 40 percent of first time convicted drunk drivers repeat their offense.
- In Wisconsin, a majority of drunk drivers who kill or injure others in crashes have no prior convictions.

- Wisconsin is the only state that handles a first OWI offense as a glorified traffic ticket...unless an OWI offender drives drunk with a child passenger in a vehicle—then it is a misdemeanor.
- Wisconsin is one of twelve states that forbids law enforcement from cracking down on drunk driving by utilizing the constitutionally protected option of conducting sobriety checkpoints.
- And currently in Wisconsin, multiple offenders who somehow end up in a state correctional facility, can earn early release from their sentence furthering the revolving door of drunk driving in Wisconsin.

In 2009 and 2010, MADD expressed concern to lawmakers and the Department of Corrections with the early release plan because it might include multiple offenders and those who killed or injured others in drunk driving crashes. Furthermore, MADD believed early release violates the rights of victims as the procedures circumvented court proceedings and more importantly allowed a venue for drunk drivers to get out of a correctional facility earlier than usual.

The potential for early release for repeat convicted drunk drivers would create a possibility for a revolving door of drunk driving in Wisconsin and meant that public safety would be compromised by allowing drunk drivers to be released earlier on roadways.

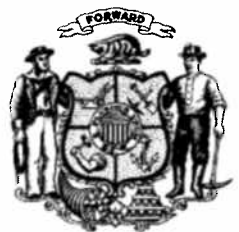
Assembly 86 and Senate Bill 57 will protect the public and the rights of drunk driving victims by ensuring that sentences handed out by courts are fulfilled. Mothers Against Drunk Driving urges this Committee to support and advance these measures in the legislative process. Thank you.

#### **About Mothers Against Drunk Driving**

Mothers Against Drunk Driving® (MADD) is the nation's largest nonprofit working to protect families from drunk driving and underage drinking. With the help of those who want a safer future, MADD's *Campaign to Eliminate Drunk Driving*® will end this danger on America's roads. *PowerTalk 21*™ is the national day for parents to talk with their kids about alcohol, using the proven strategies of *Power of Parents, It's Your Influence*™ to reduce the risk of underage drinking. And as one of the largest victim services organizations in the U.S., MADD also supports drunk driving victims and survivors at no charge, serving one person every 10 minutes at 1-877-MADD-HELP. Learn more at [www.madd.org](http://www.madd.org) or call 1-877-ASK-MADD.



# WISCONSIN STATE LEGISLATURE





# SCOTT SUDER

State Representative • 69th Assembly District

State Capitol Office:  
Room 215 West  
P.O. Box 8953  
Madison, WI 53708-8953  
(608) 266-2401 • Fax: (608) 282-3669

**ASSEMBLY MAJORITY LEADER**

69th Assembly District:  
Telephone: (715) 223-6964  
Call toll-free: (888) 534-0069  
Rep.Suder@legis.wi.gov  
<http://suder.assembly.wisconsin.gov>



Thursday, May 5, 2011

**Testimony in Support of Assembly Bill 86**  
Assembly Majority Leader Scott Suder  
*Assembly and Senate Committees on Criminal Justice and Public Safety*

Thank you, Chairman Bies, Chairman Waangard and distinguished members of the committees for scheduling a hearing on this important legislation today.

Ensuring the safety of our communities and our citizens is perhaps the greatest responsibility of any elected official. It is a basic expectation of every law abiding citizen that their government will protect them and provide the opportunity to live, work, and raise a family in a safe community. Thanks to the sentencing changes made in the budget last session that led to the early release of over 500 criminals back onto our streets before their time was served, that expectation has been placed in jeopardy.

Assembly Bill 86 will make public safety a top priority in Wisconsin again by repealing the controversial early release program which has placed hundred of dangerous criminals back into our communities without the consent of judges, prosecutors or law enforcement.

Supporters of the early release program sold it as a means of getting "smart" on crime, rather than being tough on crime. I believe that criminals must be held accountable for their actions and I don't think it is "smart" to cut murderers, child abusers, kidnappers, habitual drunk drivers, and drug dealers any slack for the crimes they have committed and that is why I have been a constant critic of the program and why I have authored legislation to repeal it.

When early release was passed as part of the budget last session, Gov. Doyle and his Administration told us that only non-violent felons would be eligible to shave time off their sentences for good behavior. Since that time, the Department of Corrections has authorized the release of 545 inmates under the early release program. After reviewing the criminal histories of these offenders, many have multiple felony convictions and have even had their prior requests for release denied by the sentencing court. Most could be classified as career criminals who've been in and out of the corrections system their entire life. In fact, the first inmate let out jail early for a health condition was convicted of attempting to murder her friend with a steak knife!

Several states have attempted similar programs only to shelve them after new crimes were committed. Wisconsin has had the same experience as Illinois, Oregon, and California, states where criminals were let out early and went on to commit new crimes in a matter of months. According to the Department of Corrections, 29 out of the 545 criminals released have been returned to prison after committing a new crime or for parole violations. The fact that the program does not rely on judges, prosecutors, or law enforcement to determine whether these inmates are safe for release makes it even more likely that new crimes will be committed.

Finally, the number one argument made in support of early release was the cost savings it would create in the Corrections budget. After 18 months and more than 500 criminals being let loose, the Legislative Fiscal Bureau has yet to confirm any cost savings attributed to this program. Simply put, rewarding criminals with early release has not and will not provide any significant savings to the taxpayers of Wisconsin.

In closing, I feel that it should be a top priority of all of us in government to ensure the safety of our citizens. The early release program does not meet this goal and is a detriment to the State of Wisconsin and the safety of its citizens. I hope that you will join me in supporting this important legislation to repeal this program before another innocent victim falls prey to a crime that could have been prevented.





Date?

# Van H. Wanggaard

Wisconsin State Senator

## TESTIMONY ON SENATE BILL 57

Mr. Chairman and members of the Committee, thank you for allowing me to testify in favor of SB 57, which in effect repeals 2009 Act 28, the felon "early release" program.

The felon early release program directly impacts public safety by releasing dangerous criminals back into their communities before their sentences are complete. This policy was snuck into the 2009-2011 budget without a public hearing, and it directly undermines the justice system by taking sentencing power out of the hands of judges and placing it in the hands of government bureaucrats.

With the implementation of this program, Class C through Class I felonies qualified for consideration of early release. These felonies include homicide by intoxicated use of a motor vehicle where there are one or more previous convictions. So, an offender could have committed his third homicide by intoxicated use of a motor vehicle, and he would still qualify for early release.

Eligible felonies also include: Manufacture, distribution, and delivery of cocaine more than 40 grams; striking a person or attended or occupied vehicle and not remaining at the scene involving death; OVWI (more than ten violations) and the list goes on and on and on and on.

With the spotlight shining on this program after passage, the Department of Corrections slowed implementation through limited releases. Some of the offenders released through this program re-offended and/or violated conditions of their release, causing local jurisdictions to expend resources investigating, locating, arresting, incarcerating, prosecuting, defending and re-confining repeat offenders.

The cost of these releases may be counted as savings to the state of Wisconsin, but they are many times more costly to local municipalities. This program was marketed as creating millions of dollars in savings for the state of Wisconsin, but in fact those savings have not materialized.

With each new offense committed, new victims are created. And although characters on the TV show NCIS can identify a fingerprint off the trigger of a firearm in less than 60 minutes with no paperwork, this is not how crimes are solved in reality. It may take multiple offenses before an offender can be identified and brought to justice.

Serving Racine County - Senate District 21



# Van H. Wanggaard

## Wisconsin State Senator

I would like to make one final point. The city of Racine has a 14% unemployment rate. It makes no sense to release these felons before the completion of their sentences into a community that is already challenged to employ members of the community who do not have a criminal past. The program sets the released felon and the community up for failure.

I am a firm believer in alternatives to incarceration. However, if the early release program is allowed to continue as intended, with its 18 page list of felonies that qualify for sentence reduction, the potential negative impact to our local communities and newly created victims will not justify the few dollars it was projected to save, and will leave our communities vulnerable to dangerous criminals.

I would like to thank Rep. Suder and the other authors of this legislation. Thank you.

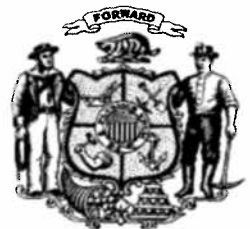
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E-Mail: [Sen.Wanggaard@legis.wi.gov](mailto:Sen.Wanggaard@legis.wi.gov) • <http://Wanggaard.senate.wi.gov>



# WISCONSIN STATE LEGISLATURE



SB 57 folder

Date ?

Honorable members of the Legislature, thank you for this opportunity to provide testimony to you on AB 86, repeal of early release, through someone who will act in my behalf due to a family emergency.

I was out of state when I learned of this hearing so I jumped on a plane yesterday, flew to Milwaukee, drove home to De Pere last night, and then got up early to make the drive to Madison. On the way I was notified of a family emergency and had to return home.

Since I was notified of this hearing while out of state I did not have all the information I gathered in over the past 2 years on Early Release. This testimony will not be as professional as I would like, but it will be clear and to the point on the impact of Early Release.

Just over two years ago I received an email from a friend about Governor Doyle's early release proposal in the State Budget. For days I called and struggled to access the information in the Budget and finally was successful. To my surprise that even though Governor Doyle and Secretary Ramisch had touted this as the release of non-violent offenders, it clearly stated violent and high risk offenders. But nothing could have prepared me for what followed in the

Joint Finance Committee Budget approval hearing in late May of 2009. As I sat for days waiting for Corrections to finally come up after multiple postponements, I gather all the motions posted on the internet and then at 2:30 in the morning, I was suddenly jarred to alertness by Omnibus Motion 670 presented by Senator Taylor and Representative Pohan. As Senator Darling argued against passage I searched frantically for the Motion. It was no where, nor had it been posted on the web site that I checked just before the hearing reconvened at 1 AM. The next morning it appeared on my computer, and I could not believe what I read. They proposed not only the release of violent/high risk criminals, but those with life sentences.

So who am I and why did this shock me as it should any legislator or citizen. I am Dr. Toni Etter, and my credentials to testify with credibility are not just from the degrees I possess, but from the fact that my husband was intentionally murdered nearly 9 years ago. Suddenly, I became a victim. I know when many people hear that term victim they think of individuals so emotionally vested that they can't possibly clearly see the whole picture. However, my research background has allowed me to access a wealth of information and so as I may speak



passionately about this issue, it is with factual knowledge.

So briefly I will present to you the mounting evidence against the Early Release Laws and why I have emailed and paced the halls of this Capitol asking for it to be removed or modified for over 2 years.

First, there was a vast array of complex and confusing laws passes in the 2009-2011 budget that even the DOC has said made their eyes water. If you look up the Grid the DOC created or go to training on this it blows your mind away. I attended training by DOC at a conference last summer cosponsored by the Wisconsin Dept. of Justice. The woman next to me had gone through it three times and said she still couldn't keep it straight. The number of requests for release the DOC and Parole Board reviews has sky rocketed stretching their resources. Now consider how well DOC has managed the collection of DNA or getting the right person's DNA. How will this be keep straight? Even the legislators I visited don't have it straight.

Second, as I mentioned before, not only Life-sentenced criminals (murderers) now can be released early without court approval and then released early

from supervision. It appears Wisconsin may be the only state in the nation that allows this. They do not need to be seriously ill as many of our legislators believe or that other states require. The age of a person does not lessen the possibility that they will kill again. David Spanbauer was in his 50s when arrested.

Third, there is no current evidenced-based research that has been found that supports the early release of prisoners as a means to reduce crime and improve public safety. The claims that it is supported by long term evidenced based research cannot be substantiated. I have searched for it, asked for it, and still have not received it from any of those supporting early release.

Fourth, the rights of victims and survivors of crime have been ignored. Many victims still may not know of the possible changes to sentences. Many don't even know about needing to be registered in order to be notified of release. Victim's rights' law does not indicate that victims must be registered to be notified, but that is how Wisconsin is handling it. After speaking to a DOC Victims Rights notification staff member, many of the registered victims don't have updated addresses and thus cannot be located.

Fifth, for those of us who go to countless hearings, sit through jury selection, listen to days of testimony, and then hear the verdict, we expect that that is what it will be. We don't expect the legislators of this state to arbitrarily go back and retroactively change the sentence. This is clearly a violation of our rights. Finally, then to allow possible release without the approval of the court who actually heard the case and watched the individual is a recipe for disaster.

The argument has been made that they are going to get out anyway. So then do we say that it doesn't matter what the court sentenced them to or that time should erase the significance of the crime. So why even give them a sentence.

Sixth, the early release changes were over and over again promoted as a way to save money.

The costs of these laws far exceeds the financial savings and at a later date I can make suggestions that will save you far more money in the Corrections area.

The estimated savings of \$27 million over 2 years given by Secretary Ramisch doesn't compare to the costs as seen in a report given to Joint Finance on March 16, 2010. This report indicated costs that

exceed \$41 million and those are only some of the costs. There are items that will pile up expenses for years to come. Another shocking element was the "Welcome Home the Offender" program and benefits for criminals that far exceed those we give to victims or our soldiers returning from battle.

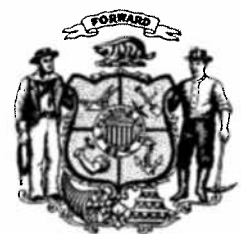
I personally am not opposed to incentives for those who have offended to improve their life and opportunities, but there are far better ways to do it at a far lesser cost to our state.

In closing, finding out about the early release laws was the ultimate betrayal to those of us who have suffered so much. As a family we may appear to have overcome this as the article about us titled "Triumph over Tragedy" suggests. Only they left out the cold hard facts that even time does not erase the pain. It does not take away the tears my children and grandchildren as well as countless family members have lived with. It does not allow my husband to be there for us or to experience their graduations, marriages, births and all the other joys of life that are now altered forever by one senseless act.

Please consider all the facts about Early Release and do what is the right thing to do for the safety of Wisconsin's children, families, and residents. Thank you! Toni Etter, De Pere, WI.



# WISCONSIN STATE LEGISLATURE



## COMMITTEE TESTIMONY

SB 57  
folder

Date?

My name is Gerald Urbik and I have been employed as a Rock County Assistant District Attorney for the past 19 years. I am here to speak in support of Assembly Bill 86 and the opinions I am expressing today are solely my own.

As a prosecutor, I believe my role in the criminal justice system is to hold criminal offenders accountable, protect the public and treat every offender fairly. AB 86 achieves all three of these goals.

Prior to Truth-in-Sentencing, an offender sentenced to prison could be released on parole after serving anywhere between one-fourth and two-thirds of their sentence. I was often surprised to discover that someone who had received a lengthy sentence had been paroled after only a few years in prison. I usually found this out when I was assigned to prosecute a new crime the parolee had committed.

When the original Truth-in-Sentencing law was enacted, I believed that one of the biggest benefits would be that law enforcement, crime victims and the criminal offenders themselves would know how much time they would spend in prison. Five years would mean five years, ten years would mean 10 years and so on. This all changed when the Truth-in-Sentencing law was severely weakened by numerous amendments which allowed convicted criminals to be released early after completing certain programs.

Although these amendments supposedly were only intended to apply to non-violent offenders, many violent offenders were statutorily allowed to participate, including individuals who were convicted of armed robberies and shootings. Other offenders, like drug dealers, who committed arguably non-violent offenses, were allowed into early release programs despite their lengthy criminal records and poor behavior during prior periods of probation and parole supervision.

I would like to provide examples of two criminal defendants who benefited from these programs to the detriment of law enforcement and public safety. In 1998 I prosecuted Darron Wilson for attempted armed robbery, burglary while armed and recklessly endangering safety. That case involved a nighttime home invasion where one of the robbery victims was shot as well as one of Mr. Wilson's accomplices (apparently accidentally). Mr. Wilson was ultimately convicted of attempted armed robbery and sentenced to ten years in prison. Before he was convicted in that case, Mr. Wilson physically assaulted another inmate in jail and was subsequently convicted of battery to an inmate.

In 2006, I again prosecuted Mr. Wilson on two counts of first degree recklessly endangering safety while armed and felon in possession of a firearm.

In that case, Mr. Wilson fired a gun into a vehicle occupied by two young women. After a hung jury, I reluctantly agreed to a plea agreement which resulted in Mr. Wilson being sentenced to four years in prison and five years of extended supervision, which was concurrent to the time he received on his parole revocation on his armed robbery conviction. I also agreed to dismiss separate cases involving charges of attempted homicide, recklessly endangering safety and battery due to proof issues. While I felt the sentence was a lot less than Mr. Wilson deserved, I felt that I had achieved at least some measure of justice for the victims. While the sentencing judge found that Mr. Wilson was statutorily eligible for the Earned Release Program, I never considered the possibility that the Department of Corrections would be so irresponsible as to allow Mr. Wilson into that program given his prior record and the offenses he was convicted of. I was shocked to find out that Mr. Wilson was accepted into the ERP and released after only serving about two years of his four year prison sentence.

While I was disturbed over the DOC's decision to release Mr. Wilson from prison, I have no doubt that the two victims were petrified that he would come after them again. The victims were entitled to some sense of security for at least two more years but the DOC even took that away from them through its decision to release Mr. Wilson early. Not surprisingly, Mr. Wilson was arrested again, this time for disorderly conduct and obstructing as a result of a confrontation at a bar with a female patron and a police officer. Once again, the DOC dropped the ball in my opinion and refused to revoke Mr. Wilson's supervision, even after he was convicted of these offenses. The issue of DOC repeatedly failing to hold offenders accountable and protect the public will hopefully be addressed another day.

The other offender I would like to mention briefly is Kevin Vance. Mr. Vance was convicted of numerous felony offenses in 2005 including escape, fleeing, recklessly endangering safety, bail jumping and possession of cocaine with intent to deliver. Despite the serious nature of these offenses, Mr. Vance's lengthy prior criminal record, including prior convictions for possession of cocaine and battery, and the fact he was charged and convicted of false swearing for lying (coincidentally at Mr. Wilson's jury trial), Mr. Vance was released early from prison after completing ERP. Mr. Vance has now been charged with recklessly endangering safety, fleeing, obstructing and possession of cocaine with intent to deliver. The alleged victim in that case is a police officer. Mr. Vance is of course presumed innocent until proven guilty in a court of law.

I am aware that one of the reasons the Truth-in-Sentencing law was amended was to save money. I have often heard the arguments from groups and individuals supporting alternatives to incarceration that early release programs make good sense economically. The counter argument about the societal cost of not keeping violent and repeat offenders in prison is rarely made. I would ask you to consider this: How much is someone's personal security worth? How much is preventing the victimization of a child worth? How much is a life worth?

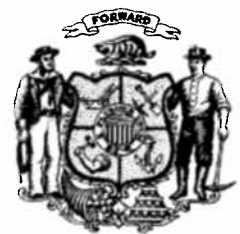
To pretend that these costs don't exist is to ignore reality. It's time to stop sacrificing public safety on the altar of financial expediency. It's time to put the "Truth" back in the Truth-in-Sentencing law.

Thank you.





# WISCONSIN STATE LEGISLATURE



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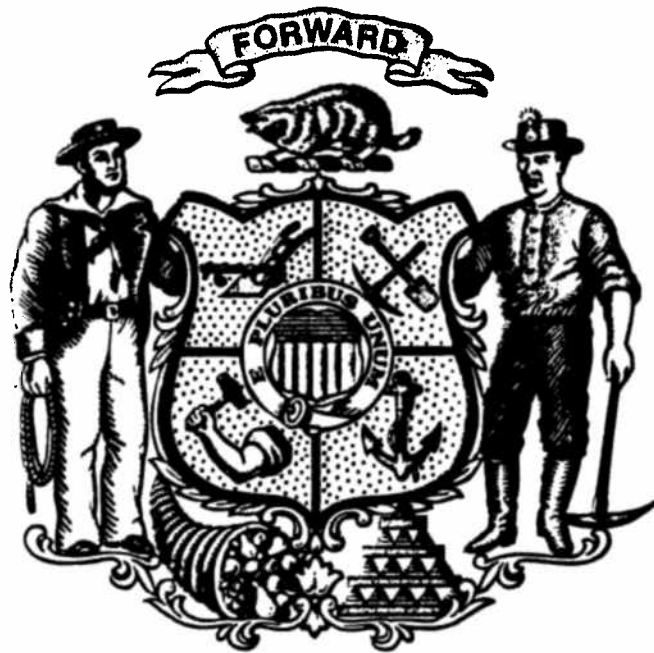
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I would like to thank Rep. Suder and the other authors of this legislation. Thank you.....





Registrations For

- J.B. Van Hollen — Attorney General, Wisconsin Department of Justice
- Toni Etter

Registrations Against

- Lena Taylor — Sen., 4th Senate District
- Jim Green
- Mary Jenny — WI Network for Peace and Justice

Registrations for Information Only

- None.

May 12, 2011

**EXECUTIVE SESSION HELD**

Present: (8) Representatives Bies, Jacque, Kestell, Brooks, Krug, Kessler, Turner and Hebl.  
Absent: (0) None.  
Excused: (0) None.

Moved by Representative Bies, seconded by Representative Kessler that **LRB a0798/3** be recommended for introduction.

Ayes: (8) Representatives Bies, Jacque, Kestell, Brooks, Krug, Kessler, Turner and Hebl.  
Noes: (0) None.

INTRODUCTION OF LRB A0798/3 RECOMMENDED, Ayes 8, Noes 0

Moved by Representative Krug, seconded by Representative Jacque that **LRB a0798/3** be recommended for adoption.

Ayes: (5) Representatives Bies, Jacque, Kestell, Brooks and Krug.  
Noes: (3) Representatives Kessler, Turner and Hebl.

LRB A0798/3 ADOPTION RECOMMENDED, Ayes 5, Noes 3

Moved by Representative Krug, seconded by Representative Jacque that **Assembly Bill 86** be recommended for passage as amended.

Ayes: (5) Representatives Bies, Jacque, Kestell, Brooks and Krug.  
Noes: (3) Representatives Kessler, Turner and Hebl.

PASSAGE AS AMENDED RECOMMENDED, Ayes 5, Noes 3

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Andrew Nowlan  
Committee Clerk