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☛ **10/03/2013 Public Hearing**

(FORM UPDATED: 08/11/2010)

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

**2013-14**

(session year)

**Assembly**

(Assembly, Senate, or Joint)

**Committee on ...  
Corrections  
(AC-Co)**

**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 ... **HR** ... **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) (December/2014)

## Assembly

### Record of Committee Proceedings

#### **Committee on Corrections**

##### **Assembly Bill 251**

Relating to: allowing a county to seek reimbursement for expenses incurred in confining a prisoner in jail.

By Representatives Williams, Hulsey, Milroy, Jacque, Tittl, T. Larson, Born, Bies, Kleefisch, Bernier and Ballweg; cosponsored by Senator Lehman.

June 20, 2013            Referred to Committee on Corrections

October 03, 2013        **Public Hearing Held**

Present:    (9)       Representative Bies; Representatives Schraa, Brooks, Krug, Thiesfeldt, Kleefisch, Doyle, Pasch and Zamarripa.

Absent:     (0)       None.

Excused:   (0)       None.

##### Appearances For

- Mary Williams - State Representative
- David Kaminski - Rusk County Sherriff's office/ Badger Sheriff Association
- David Callender - Wisconsin Counties Association

##### Appearances Against

- None.

##### Appearances for Information Only

- None.

##### Registrations For

- Mark Wadium - Outagamie County Board Supervisors

##### Registrations Against

- None.

##### Registrations for Information Only

- None.

October 31, 2013        **Executive Session Held**

Present: (7) Representative Bies; Representatives Schraa,  
Thiesfeldt, Kleefisch, Doyle, Pasch and  
Zamarripa.

Absent: (0) None.

Excused: (2) Representatives Brooks and Krug.

Moved by Representative Schraa, seconded by Representative  
Thiesfeldt that **Assembly Bill 251** be recommended for passage.

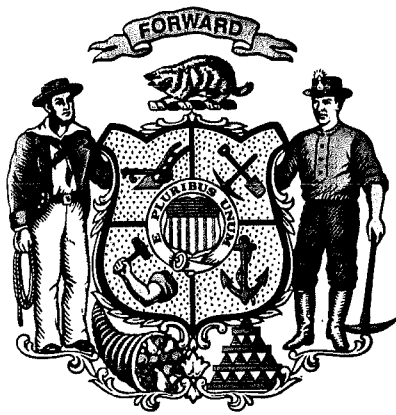
Ayes: (7) Representative Bies; Representatives  
Schraa, Brooks, Krug, Thiesfeldt, Kleefisch  
and Doyle.

Noes: (2) Representatives Pasch and Zamarripa.

PASSAGE RECOMMENDED, Ayes 7, Noes 2

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Cory Bruce  
Committee Clerk



## Vote Record Committee on Corrections

Date: 10/31/13

Moved by: Schraa

Seconded by: Thiesfeldt

AB 251 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrency

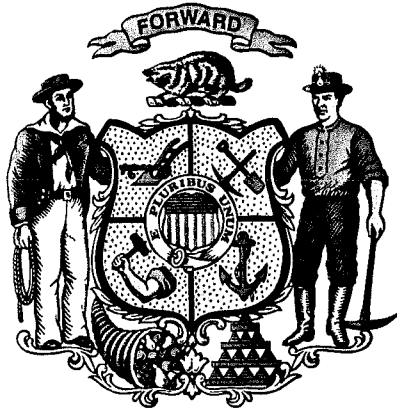
Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Garey Bies, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Michael Schraa, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Edward Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Scott Krug	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeremy Thiesfeldt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Joel Kleefisch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Steve Doyle	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sandy Pasch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative JoCasta Zamarripa	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_  
5  
2  
7  
2

Motion Carried

Motion Failed



**Statements and Issues that could arise (from AG or Sheriffs/others)**

**Statement from Sheriffs:** It will cost us more because we will have to transport kids to other counties for juvenile detention since we don't have a juvenile facility in our county.

**Question:** Do you know how many 17 year olds you held in your jail last year and/or any idea on how many of those would be held in juvenile detention?

**Discussion:** (1) the standards for holding in jail and juvenile are much different, such that this bill narrows considerably the range and number of 17 year olds who would be held in juvenile detention (standard for juvenile is substantial risk of physical harm to another, and violent offenses are excluded; or running away so as to be unavailable for court, and the youth in this bill will not have a history of missing court, as they are first-time delinquents); (2) There could be a small % of 17 year olds who may meet secure detention criteria, but for some counties who deal with perhaps only 50-100 juveniles a year, that may be 10 17-year-olds and maybe one will meet the criteria – do they have some numbers to suggest otherwise; and (3) are you not going to incur some costs related to complying with the Prison Rape Elimination Act that will offset these costs? (see PREA information below).

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**PREA Information:** The Prison Rape Elimination Act (PREA) was authorized by congress around 10 years ago but regulations to implement it were just put in place this summer. PREA requires, for reasons related to health and safety, that: (1) any youth under 18 held in an adult facility be "sight and sound separated" from adult inmates and that any incidental contact when they may come in contact with adults (e.g. passing in a hallway) be directly supervised by staff; (2) higher staff to youth ratios be provided so the number of youth supervised per jail staff is much lower than for adults.

**Statement:** We (meaning a county jail) don't have to or plan to comply with PREA

**Response/Discussion:** Any adult facility holding youth under the age of 18 is subject to PREA but note: (1) the only sanction for non-compliance is a sanction on the state, not the county unless the county contracts for placements from DOC – the state would lose 5% of federal justice funds, including any adult or juvenile justice fund; (2) DOC has made plans to fully comply with PREA for the prison system; and (3) any adult facility not complying will be subject to unquestioned liability should something happen to/harm come to a youth under 18 in their facility.

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**Statement:** 17 year olds can be waived back to juvenile court.

**Response:** No, that is incorrect. See Legislative Council memo in relation to initial statements wondering why judges do not waive 17 year olds back to juvenile more often.

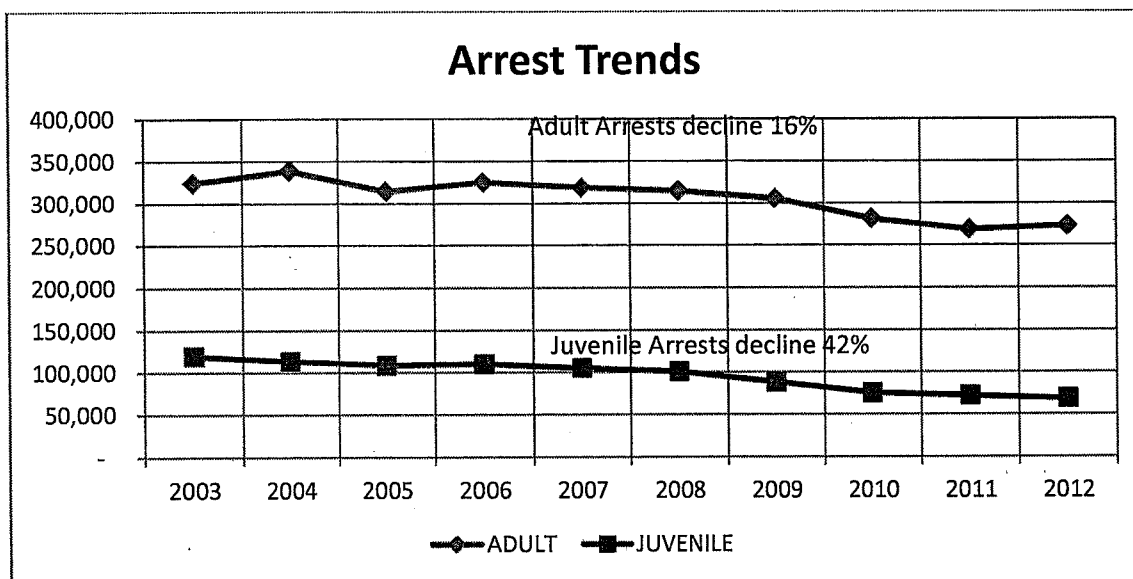
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&  
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**Statement:** It's working, and prosecutors have discretion on how to proceed with 17 year olds. Not all 17 year olds end up with adult records; and counties are increasing their use of deferred agreements, specialty courts, and expungement of records of youthful offenders.

**Question:** Are these options and programs offered in all counties? Do you have any data on how many court filings end up being expunged? Is there any data that supports that the adult system assessed for and/or provides the services to meet the needs of 17 year olds that can get them back on track?

**Discussion:** No, these programs are not universal. Yes, prosecutors have discretion but (1) often exercise it without any assessment of the youth prior to doing so; (2) often charges are filed and subsequently dismissed, but that may or may not be expunged; (3) even if the court filing is expunged, there will be an arrest that is considered an adult arrest; (4) there are clearly limited resources and services available in the adult system for 17 year olds when compared to the juvenile system; and (5) under this proposal, prosecutors still have the discretion to file a waiver petition to the court and argue for adult court if needed.

- If the adult system was working so well, why did the leg. audit in 2008 show that the highest rates of recidivism were for 17-year olds?
- If the adult system is working so well, why did approximately 50% of 17 year olds on probation fail to complete probation without an incident/revocation/new offense?
- If the adult system is working so well, why are adult arrests not declining at anywhere near the rate that juvenile arrests have fallen?

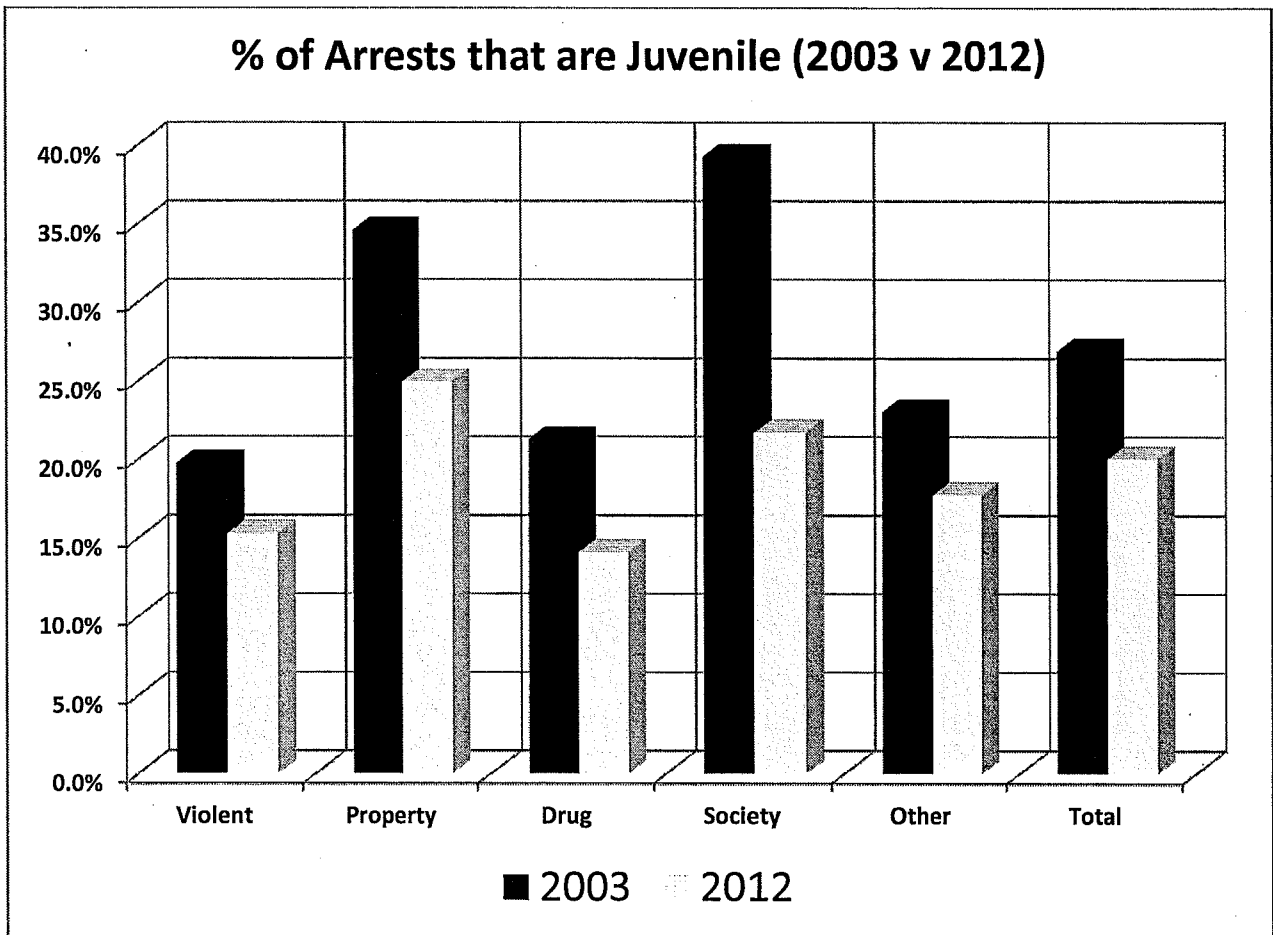




**Statement:** Juveniles are committing more and more/higher proportions of offenses.

**Question:** Is there data to support that?

**Answer:** NO. In all categories of offenses, the percentage of juveniles arrested out of overall arrests statewide (e.g. in 2002 around 19% of arrests for violent offenses were juveniles, in 2012 that portion was just under 15%) has declined since 2003. While there have been a few “ups and downs” in a couple of these categories over the decade, the general trend is down and you can see that 2012 is markedly lower.



**Statement:** Juvenile arrests are increasing.

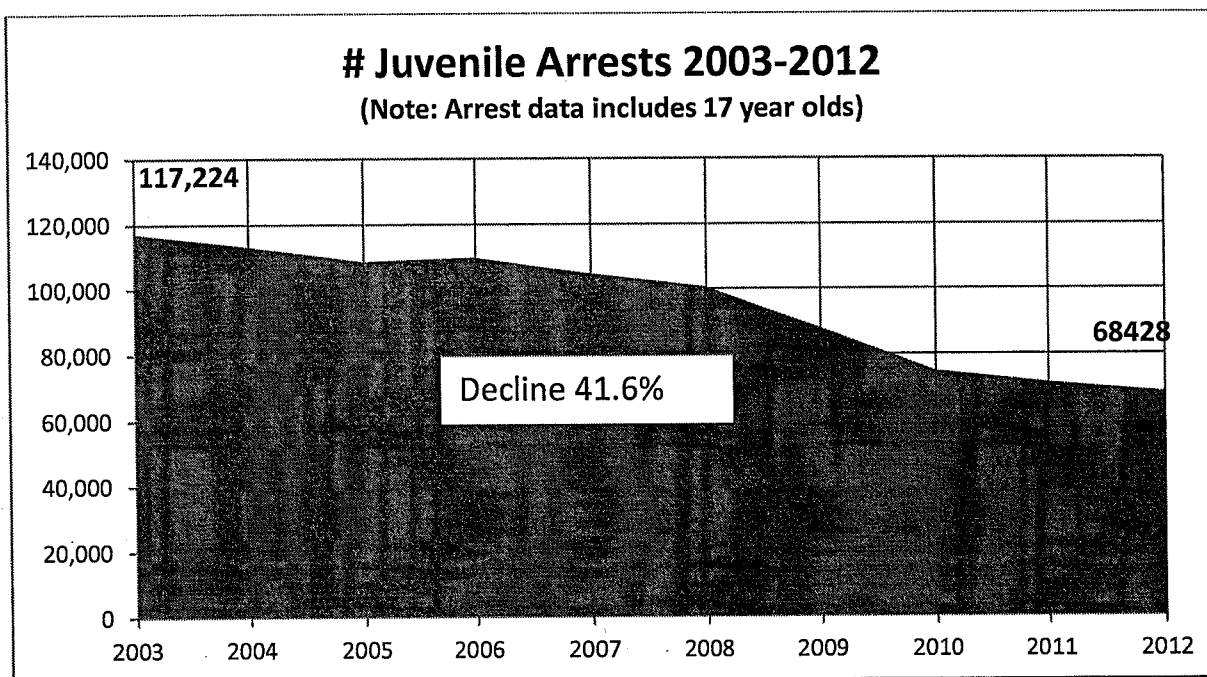
**Question:** Is there any data to support that?

**Answer:** Not according to arrest reports filed with the state. In fact, juvenile arrests have declined around 41.6% over the past decade. This is statewide data, and there are some counties in which the trend is not exactly the same as this, but overall the decline over the last decade is consistent.

**Statement:** This must mean it's working – that putting 17 year olds in adult court is working?

**Question:** do you have any data to suggest that the reason juvenile arrests have gone down is related to the law that put 17 year olds in adult court?

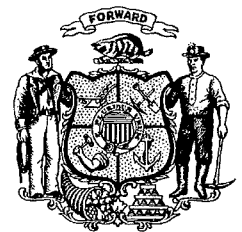
**Answer:** That's complicated, but (1) arrests of all youth under 18 has declined over time and has continued to decline significantly well past the year in which the age was changed (not shown in this chart, but the relative % of arrests of 17 year olds that are included in this data has remained relatively constant over time, roughly 20-25% of all juvenile arrests varying somewhat on type of offense) – so, the decline cannot be explained by changes in arrests of 17 year olds; and (2) juvenile arrests actually peaked in 1994, two years before the change went into effect. There is no research/evidence to support that lowering the age is what has caused this decline; and (3) other states in which 17 year olds remained in juvenile court have seen similar declines.



Note: the relative % of juveniles in the general population has declined by around 15-17% during this period, accounting for some of the decline in numbers but nowhere near enough to account for a 41+% decline.



# WISCONSIN STATE LEGISLATURE





## MEMORANDUM

TO: Honorable Members of the Assembly Committee on Corrections  
FROM: David Callender, Legislative Associate *DC*  
DATE: October 3, 2013  
SUBJECT: Support for Assembly Bill 251

The Wisconsin Counties Association (WCA) supports Assembly Bill 251.

3 Assembly Bill 251 (AB 251) gives counties additional flexibility in their attempts to reduce the financial burden of jail costs on county taxpayers.

The costs of operating jails are one of the largest expenses for Wisconsin counties. Unlike other programs, jails receive minimal revenue from outside sources, such as federal or state funding. As a result, the costs of jails are borne almost entirely by local property taxpayers.

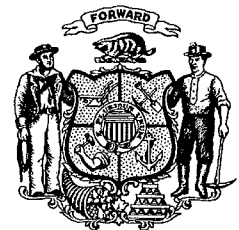
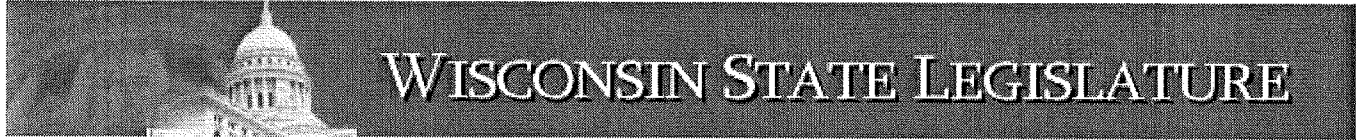
State law requires counties to provide medical and dental care, medications and other services to inmates in county jails. The statewide average cost of jailing each inmate is \$50 per day, but these additional costs may reach tens or even hundreds of thousands of dollars.

Under current law, counties may seek to recover jail costs for offenders who are placed on probation and sentenced to jail time, or only sentenced to jail time. These expenses include per-day cost of maintaining the prisoner, including any period of pre-trial detention relating to the crime. Counties cannot, however, under current law, seek to recover jail costs from offenders who are eventually sentenced to prison.

Assembly Bill 251 eliminates the above distinction and allows counties to seek to recover costs regardless of whether an offender is sentenced to a county jail, placed on probation, or sentenced to a state prison.

WCA acknowledges that many inmates may be unable to pay the costs they have incurred, especially if those costs are large. However, WCA believes that at some point during or after completing their sentences, some inmates will seek to assume personal responsibility for the consequences of their crimes. An important part of that process would be repaying taxpayers the costs of the inmate's confinement.

WCA respectfully requests the Committee to support this legislation.



# Office of the Sheriff

311 Miner Ave. E., Suite L100  
Ladysmith, Wisconsin 54848-1896  
(715) 532-2200  
Fax: (715) 532-2175  
www.ruskcounty.org/sheriff

# Rusk County

David Kaminski, Sheriff  
Marc E. Egle, Chief Deputy

October 3, 2013

TO: Members of the Criminal Justice and Corrections Committee

FROM: David Kaminski  
Sheriff of Rusk County  
President of the Badger State Sheriff's Association

REF: AB 251 County Reimbursements for Inmate Expenses

Committee Members,

Thank you for the opportunity to speak in front of this committee in reference to AB 251 County Reimbursements for Inmate Expenses.

The issue for County Jails and the perspective county is the ability for a county to request and receive reimbursement costs from inmates being held in County Jails.

The current law allows a County to seek reimbursements from inmates sentenced to the County jail or being held as a condition of probation for expenses incurred by those inmates for their stays in County Jails. These expenses can include a daily inmate fee, medical and dental expenses, medications and costs of maintaining inmates in County Jails.

The issue is those inmates that are arrested and held in County Jails for felony offenses. The inmates are held in our county jails pending trial and sentencing. The Counties jails are required to provide medical and dental and medications as well as fees for maintaining these inmates while being held in the County Jails. If the inmate is found guilty of these offenses and are sentenced to the State Prison system, they are given credit for the time that was served in the County Jail as State Prison time and not County Jail time. As a result, the law in its current wording does not allow for a County to seek reimbursement costs from these inmates as the time served in the County jail is credited to State Prison time and not County Jail time. The County has no recourse to attempt to receive reimbursement costs for these inmates.

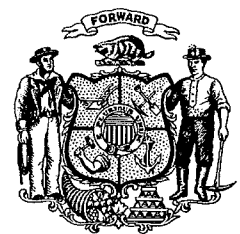
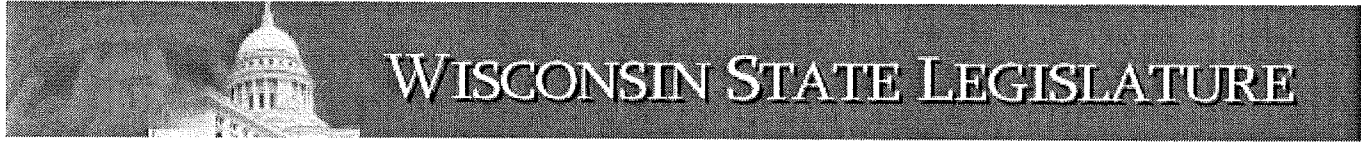
As a result, this expense is placed onto County Tax payers and not to those that should be held responsible for the expenses they accumulated during their stays in the County Jails.

As an example, Rusk County had arrested a subject for 1<sup>st</sup> degree intentional homicide and this subject was held in the Rusk County Jail pending trial. The inmate was found guilty of the charges and was sentenced to the State Prison system and was given credit

for his County Jail time as State Prison Time. During the inmates stay in the Rusk County Jail, the inmate accumulated doctor visit fee's, hospital/clinic fee's, jail nurse visit fee's, medical prescription drug fee's, inmates hair cut fee's, local reimbursement cost fee's, and postage fee's. Total cost to the County for this inmate during his stay in the Rusk County Jail was \$8794.81. Rusk County billed this inmate after he was sent to the State Prison. The inmates and his family began to pay off this expense, but the inmate hired an attorney and challenged the County stating that the statute does not allow Rusk County to seek this reimbursement as the inmate in question was not sentenced to the Rusk County Jail as his time served was credited to State Prison Time. As a result, Rusk County Tax payers paid this expense.

The current statute needs to be changed so that any inmate being held in the County Jail and incurs any expenses as a result of their stay in the County Jail, Counties must have the ability to seek reimbursement costs from these inmates. This is a burden on County tax payers and this should be placed on those people that commit the crime.

I thank you for your time and attention to this issue.





**Testimony**

Patrick Fiedler	State Bar
Vicky Gunderson	Parent
Derek Cohn	Texas Policy Institute Right On Crime
Jim Moeser	WCCF
Lance Horozewski	Rock County Human Services

Linda Hall / Kathy Markeland WI Assn of Family and Children's Agencies

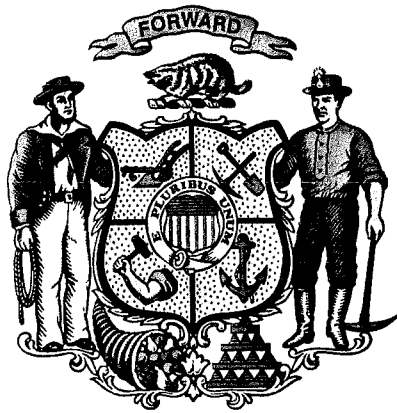
Adam Plotkin/Robin Dorman	Public Defenders Assn
Jesse Russell	National Council on Crime and Delinquency
Michael Malmstadt	Former Judge

**OTHER groups that we expect to testify (no order preference)**

Barbara Sella	WI Catholic Conference
Marc Herstand	NASW - WI Chapter
Peter Bakken	WI Council on Churches
Minister Kaleef (Sp?)	WISDOM - minister Caliph muab-el

Phyllis Freeberger - WI Dis. Rights

10-03-2013  
Hearing  
AB 251  
&  
AB 387



# Legislative Bill/Resolution

2013-2014 Legislative Session

## Assembly Bill 251

Relating to: allowing a county to seek reimbursement for expenses incurred in confining a prisoner in jail. (FE)

Count	Principal Name	Position	Notified Date
1	National Association of Social Workers - Wisconsin Chapter	Against	9/10/2013
2	Outagamie County Board of Supervisors	For	7/5/2013
3	Wisconsin Counties Association	For	10/2/2013