



WISCONSIN LEGISLATIVE COUNCIL

JUSTICE REINVESTMENT INITIATIVE OVERSIGHT

Room 411 South, State Capitol
Madison, Wisconsin

May 6, 2009

10:00 a.m. – 3:15 p.m.

[The following is a summary of the May 6, 2009 meeting of the Special Committee on Justice Reinvestment Initiative Oversight. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Taylor called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Lena Taylor, Chair; Sens. Dan Kapanke and Luther Olsen; Reps. Tamara Grigsby, Joel Kleefisch and Scott Suder; and Public Members John Chisholm, James Dwyer, David Graves, Frank Humphrey, Kit McNally, Lisa Stark, A. John Voelker, Maxine White, and Noble Wray.

COMMITTEE MEMBERS EXCUSED: Rep. Robert Turner; and Public Members Nicholas Chiarkas, Richard Dufour, and Tony Streveler.

COUNCIL STAFF PRESENT: Anne Sappenfield and Ronald Sklansky, Senior Staff Attorneys.

APPEARANCES: Marshall Clement, Project Director, Justice Reinvestment Initiative, Council of State Governments (CSG) Justice Center.

Approval of the Minutes of the Committee's April 22, 2009 Meeting

Senator Olsen moved, seconded by Mr. Graves, that the minutes of the April 22, 2009 meeting be approved. The motion passed by unanimous consent.

Description of CSG Justice Center's Final Report

- **Marshall Clement, Project Director, Justice Reinvestment Initiative, CSG Justice Center**

Mr. Clement noted that committee members had received an electronic copy of *Justice Reinvestment in Wisconsin: Analyses and Policy Options to Reduce Spending on Corrections and Increase Public Safety* and that hard copies were at each member's place. He said that the final version incorporates many of the changes recommended by committee members and others.

Description of Bill Drafts

- **WLC: 0427/1, relating to community supervision services**

Ms. Sappenfield described WLC: 0427/1. Mr. Wray led the initial discussion on the draft. He said that the goal of the draft's provisions is to align resources with the needs of the criminal justice system. He said that the goal of reducing recidivism by 25% was also included in Kansas's justice reinvestment legislation. He said that such a goal is recognition of the efforts by probation, extended supervision, and parole officers by state leaders and noted that, in Kansas, the effects of the goal have exceeded the state's expectations.

Mike Tobin, Director, Trial Division, Office of the State Public Defender, who appeared on Mr. Chiarkas' behalf, asked whether there is an incentive for agents to pursue revocation and whether the draft addresses this issue. Chair Taylor said that the draft does not directly address the issue but that perhaps the goal of reducing recidivism would help address that issue. Representative Kleefisch said that he is concerned that the goal of reducing recidivism may create an incentive not to revoke. Ishmael Ozanne, Executive Assistant, Department of Corrections (DOC), appearing on Mr. Streveler's behalf, said that agents' caseloads are currently determined by using a point system under which higher-risk offenders are assigned more points. He said that DOC is working with CSG to look at this system and also to validate Wisconsin's risk assessment tool and, perhaps, choose a different risk assessment tool. He also said that DOC is completing a study on revocations of supervision in Wisconsin and may have the results of the study by the end of May, 2009.

Chair Taylor suggested including language in the draft to provide training to agents on revocation and risk reduction. There was consensus to include this language.

Chair Taylor asked whether the funding for community alternatives to revocation should be targeted to areas of high recidivism. Mr. Schuh said that he is concerned about not providing funding to communities that have invested in successful programs and, therefore, have a relatively low recidivism rate. Mr. Clement said that DOC currently spends \$27 million on community services and counties invest money in these services as well. He said that to distribute this funding, an oversight committee along with DOC should look at the breakdown and criminogenic needs of offenders, then look at the capacity of state-funded services, and, finally, identify gaps in services.

Chair Taylor suggested including language in the draft to reflect Mr. Clement's suggestions on determining how to distribute funding for alternatives to revocation. There was consensus to include this language.

Representative Suder asked where the funding included in the draft will come from. He said that he believes in the initiatives set forth in the draft but is concerned that there is not adequate state money available to fund them. Senator Olsen said that the committee should include the level of funding it finds appropriate and that the Legislature will determine whether that level of funding can be appropriated.

Chair Taylor suggested including the appropriation amounts proposed by CSG in the draft. There was consensus to include the appropriation amounts.

Mr. Voelker asked whether the draft should require DOC's annual report on decreasing recidivism to be distributed to the judicial as well as the executive and legislative branches. Chair Taylor suggested including language in the draft to require DOC to distribute the report to the judicial branch, as well. There was consensus to include this language.

- ***WLC: 0425/1, relating to maximum term of extended supervision; and WLC: 0426/1, relating to the parole and extended supervision revocation process and time spent in prison after revocation***

Ms Sappenfield described WLC: 0425/1 and WLC: 0426/1. Mr. Dwyer led the initial discussion on WLC: 0425/1. He said that judges with whom he has discussed the draft have raised some concerns that the draft limits judicial discretion. He said that having pre-sentencing risk assessments could alleviate some of these concerns.

Mr. Chisholm led the initial discussion on WLC: 0426/1. He noted that there have been increases in the number of people on supervision, the length of supervision, and the rate of revocation of supervision. He said that all of the players in the criminal justice system have an obligation to structure a response. Mr. Chisholm said that he believes a distinction should be made between rule violations and new criminal offenses in the revocation process. He said that he believes rule violations should be handled as the draft proposes, but that some offenders should be given a longer confinement time following revocation.

There was consensus to draft an option in WLC: 0426/1 to permit longer terms of reconfinement following revocation of extended supervision if the offender has been charged with a serious felony.

Mr. Chisholm and Mr. Dwyer noted Mr. Dufour's concern in a letter he sent to Chair Taylor that longer revocation may be warranted in cases in which the defendant owes restitution that he or she cannot pay within the term of extended supervision ordered. Ms. Stark said that she understands that issue but would argue that very little restitution is collected from persons on extended supervision. She also said that, in her county, the clerk of courts has tools to assist victims in collecting civil judgments that are not available to victims owed restitution.

Mr. Schuh brought up the topic of whether credit for time served on an extended supervision revocation should be applied to the six-month period of reconfinement. Mr. Clement said that CSG assumed it would not and that the cost projections assume an average incarceration period of seven months. Ms. White said that she would like further information on whether offenders whose extended supervision is revoked have a right to credit for time served. Chair Taylor asked staff to consider options for the issue of credit for time served.

Mr. Schuh said that the requirement that the term of extended supervision may not exceed 75% of the term of confinement in prison should be presumptive unless good cause is shown. Ms. McNally said that, in her experience at the Benedict Center, endless supervision is detrimental to offenders. She said that Wisconsin has long sentences already and will increase the odds of success if communities have more effective services. There was consensus to draft an option in WLC: 0425/1 to permit a court to order a longer term of extended supervision in consideration of a victim's rights.

- ***WLC: 0428/1, relating to risk reduction sentence***

Ms. Sappenfield described WLC: 0428/1. Ms. Stark led the initial discussion on the draft. Ms. Stark described the various current statutes that permit early release of offenders. She said that all of the current programs have flaws, including that they are defendant driven, judges do not have enough information when they order participation in program or early release, and there is no incentive to participate in early release programs.

Ms. Stark said that, in discussing the draft with other judges, they expressed a desire to have an assessment of the defendant before sentencing. She said that, realistically, that will not be available at this point and noted that judges always have the discretion not to order a risk reduction sentence.

Ms. Stark requested removing the language requiring DOC to notify the court of the results of the risk assessment and required programming of an offender who is ordered to participate in a risk reduction sentence. There was consensus to remove this language.

Mr. Schuh said that he was concerned that the draft could be read to require a court to order a risk reduction sentence if the defendant agreed to participate in a risk assessment and programming or treatment. Senator Olsen recommended including language requiring the court to determine that a risk reduction sentence is appropriate before it may be ordered. There was consensus to include this language in the draft.

Discussion of Committee Assignment

There was no further discussion of committee assignment.

Other Business

There was no other business before the committee.

Plans for Future Meetings

The next meeting of the Special Committee will be on ***Friday, May 15, 2009, at 1:00 p.m., in Room 412 East, State Capitol, Madison.***

Adjournment

The meeting was adjourned at 3:15 p.m.

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