



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #231

Pharmacological Treatment for Certain Child Sex Offenders (DOC -- Adult Corrections)

[LFB 2005-07 Budget Summary: Page 128, #9]

CURRENT LAW

Base funding for the pharmacological treatment for certain child sex offenders is \$701,200 GPR and 0.75 GPR position.

GOVERNOR

Delete \$400,000 GPR annually in supplies and services funding from the pharmacological treatment for certain child sex offenders appropriation. In addition, reallocate a 0.75 position and associated funding of \$78,800 GPR annually from the appropriation to Corrections' general program operations appropriation.

DISCUSSION POINTS

Program Background

1. The pharmacological treatment program for persons convicted of serious child sex offenses with a victim under the age of 13 years (first- or second-degree sexual assault of a child, or engaging in repeated acts of sexual assault of the same child) was created under 1997 Act 284. The program became effective in January, 1999, and the first offender began treatment in May, 2001. The program is commonly referred to as the "chemical castration" program. Under s. 304.06(1q), the Parole Commission or Corrections may require as a condition of parole that a serious child sex offender undergo pharmacological treatment. Corrections may also require pharmacological treatment as a condition of probation. In deciding whether or not to grant a serious child sex

offender release on parole, the Parole Commission may not consider as a factor in making its decision that the offender is a proper subject for pharmacological treatment, or that the offender is willing to participate in pharmacological treatment.

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

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

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

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

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

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

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

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

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

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

c. *Volunteers.* Offenders on probation or parole who are statutorily eligible and not in the custody of Corrections or in violation or revocation status may also be referred to participate in the program. If an offender volunteers to participate, the program specialist contacts the offender to

discuss the appropriateness of the referral. Offenders are then referred for a medical exam to determine medical suitability. The offender is subject to the rules of the program, and must give his probation and parole agent adequate notice before terminating treatment, unless there is a medical emergency.

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

4. Since the program began, 1,894 offenders have been screened for eligibility, of whom 726 (38.3%) have been appropriate to participate. As of April, 2005, there have been a total of 32 offenders (1.7% of offenders screened or 4.4% of those appropriate to participate) who have participated or are currently participating in the program. These offenders include: (a) 11 offenders currently in the program; (b) eight offenders who successfully completed the program; (c) seven offenders were removed from the program as a result of rules violations, such as failure to participate in substance abuse counseling or sex offender treatment, possession of sexually explicit materials, or violation of no-contact rules; (d) three offenders who dropped out of the program; and (e) three offenders who left the program early as a result of reaching their mandatory release date.

5. When the program was created, 1.0 GPR administrative assistant position was created in the Department. In 2000, Corrections divided the position into 0.25 corrections program specialist and 0.75 chief psychologist. In 2003 Act 33, the 0.25 position was deleted as part of a larger agencywide position reduction. The Department indicates that currently, the 0.75 chief psychologist position is utilized for evaluations under Chapter 980 (sexually violent person commitments) and not for the pharmacological treatment program. According to the Department, a limited-term employment psychiatrist is utilized for the pharmacological treatment program.

6. Expenditures for the program were \$141,500 GPR in 2002-03, \$131,100 GPR in 2003-04, and are projected to be \$145,500 GPR in 2004-05. Actual expenditures for 2002-03 and 2003-04 are identified below. It should be noted that the appropriation supported 1.0 position in 2002-03, compared to 0.75 position in 2003-04.

	<u>2002-03</u>	<u>2003-04</u>
Salaries	\$57,500	\$48,400
Limited-Term Employee Salary	22,000	18,200
Fringe Benefits	26,500	22,000
Supplies and Services	<u>35,500</u>	<u>42,500</u>
Total	\$141,500	\$131,100

Assembly Bill 100

7. Current base funding in the appropriation is \$701,200 GPR and 0.75 GPR position. Under the bill, total funding after standard budget adjustments is \$708,500 with 0.75 GPR position. Funding is divided as follows:

Salaries	\$52,000
Fringe Benefits	23,800
Supplies and Services -- Position	3,000
Supplies and Services -- Program	<u>629,700</u>
Total	\$708,500

8. Assembly Bill 100 would delete \$400,000 GPR annually in supplies and services funding from the pharmacological treatment program appropriation. In addition, 0.75 chief psychologist position and associated funding of \$78,800 GPR would be reallocated from the pharmacological treatment appropriation to the general program operations appropriation (with no change to overall funding and position totals). All funding remaining in the appropriation would be budgeted as supplies and services. These expenditures include items such as pharmaceuticals and nursing services in the community to administer medications.

9. Given that expenditures have historically been lower than base funding, an argument could be made to reduce program funding. Under the bill, supplies and services funding would be reduced by \$400,000 annually to \$229,700 GPR annually. Alternatively, based on cumulative supplies and services and limited-term employee expenditures to date and the number of offenders identified as appropriate for treatment, the appropriation's supplies and services amounts could be reduced to \$110,000 GPR annually (a further reduction to the bill of \$119,700 GPR annually).

10. If funding for the program is reduced and future program participation increases beyond available resources, Corrections could submit a request under s. 13.101 for supplemental funding.

11. Under the pharmacological treatment appropriation, expenditures are restricted solely to the program. Corrections indicates that the current 0.75 chief psychologist is used for evaluation offenders for Chapter 980 commitments. While identification of individuals who may be eligible for the pharmacological treatment program is a result of the Chapter 980 indication process, Chapter 980 applies to a much broader range of sexual assault offenses. Further, once an offender is referred for Chapter 980 commitment, they are no longer eligible for pharmacological treatment.

12. It could be argued that Corrections has improperly been using resources from the pharmacological treatment appropriation for Chapter 980 evaluations. As a result, the Committee could delete the transfer of the 0.75 position to the general program operations appropriation. Under this alternative, position authority would be retained within the appropriation to conduct program related activities. Further, the Department would be required to reallocate resources and

positions within its general program operations appropriation in order to continue to support the 0.75 chief psychologist.

13. On the other hand, it could be argued that since a limited-term employment psychiatrist is used primarily for the pharmacological treatment program and the 0.75 chief psychologist is used for Chapter 980 evaluations, transferring the resources from the pharmacological treatment appropriation is an appropriate alignment of resources.

ALTERNATIVES

1. Approve the Governor's recommendation to delete \$400,000 GPR annually in supplies and services funding from the pharmacological treatment for certain child sex offenders appropriation. In addition, reallocate a 0.75 chief psychologist position and associated funding of \$78,800 GPR annually from the appropriation to Corrections' general program operations appropriation.

2. In addition to Alternative 1, delete an additional \$119,700 GPR annually in supplies and services funding from the pharmacological treatment appropriation.

<u>Alternative 2</u>	<u>GPR</u>
2005-07 FUNDING (Change to Bill)	- \$239,400

3. Modify the Governor's recommendation to retain the 0.75 GPR position and \$78,800 GPR annually in the pharmacological treatment appropriation.

4. Delete the provision.

<u>Alternative 4</u>	<u>GPR</u>
2005-07 FUNDING (Change to Bill)	\$800,000

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