



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #125

Presentencing Assessment Grant to the County with the Highest Violent Crime Rate (DOA -- Office of Justice Assistance)

Bill Section

[LFB 2007-09 Budget Summary: Page 40, #6]

CURRENT LAW

After a felony conviction, the circuit court may order the Department of Corrections to prepare a presentence investigation report. The report must include: (a) a recommendation as to whether the individual should be eligible to participate in the earned release program; (b) a recommendation as to whether the individual should be eligible for the challenge incarceration program; and (c) for convicted individuals under 21 years of age, information as to whether the individual has been adjudged delinquent in Wisconsin or in any other state in the four years immediately preceding the date of the criminal complaint relating to the convicted charge. In addition, in preparing the report Corrections must make a reasonable attempt to contact the victim to determine the economic, physical and psychological effect of the crime on the victim. The Department of Corrections may utilize these reports in implementing correctional programming, parole consideration, or care and treatment of any person in its custody.

In cases generally involving more serious felony convictions, the Office of the State Public Defender (SPD) may also prepare a report for the court to consider at sentencing. The SPD report may provide information on: (a) the education, employment, and social history of the convicted individual; (b) what positive factors exist in the individual's life that may help the individual to make more positive choices in the future; and (c) sentencing and rehabilitative options the court may consider, including an assessment of available community-based treatment programs that could assist the individual to address behavioral problems that may have contributed to the criminal conduct.

GOVERNOR

Provide \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, for a grant to the county that has the highest violent crime rate, as reported by the Department of Administration's Office of Justice Assistance (OJA), to fund the preparation of presentencing assessments of offenders. The Executive Budget Book indicates that the grant would be provided to Milwaukee County. Amend OJA's GPR annual grants for county alcohol and other drug abuse programs appropriation, to permit OJA to provide this grant funding.

Create a non-statutory provision specifying that, by December 1, 2007, the county that has the highest violent crime rate, as reported by OJA, would be required to submit to OJA a plan for conducting presentencing assessments. Upon approval of the plan, OJA would be required to award the county \$250,000 for calendar year 2008, and \$500,000 for calendar year 2009. At least 50% of the assessments performed by a county with this grant funding would have to be of persons subject to sentencing in connection with a felony.

The county plan submitted to OJA would have to include all of the following:

- a. Identification of a target group of offenders to assess, from among persons who are convicted of a Class F through I felony, or a misdemeanor.
- b. Assessment of persons in the target group to determine: (1) the risk that they will commit further crimes; (2) their needs that are directly related to criminal behavior; (3) the likelihood that they will respond positively to community-based treatment for the assessed need; and (4) an assessment of the availability of community-based treatment programs to serve the offenders.
- c. Collection and dissemination of information relating to the: (1) accuracy of assessments performed; (2) value and usefulness of information contained in the assessment reports for purposes of making sentencing decisions; (3) effectiveness of community-based treatment programs in addressing the assessed needs of offenders; and (4) effect of the treatment programs with respect to recidivism.
- d. Annual reevaluation of the plan.

DISCUSSION POINTS

1. Prior to sentencing, a circuit court judge may order Corrections to prepare a presentence investigation report. While a circuit court judge may order such a report from Corrections in any case involving a felony, in practice such reports are only prepared in a minority of felony cases. These reports are not prepared in misdemeanor cases. A presentence investigation report prepared by Corrections is typically divided into five parts: (a) present offense; (b) prior record; (c) family background; (d) personal history; and (e) summary and conclusions. These sections of the report provide the court with the following information at sentencing:

a. The present offense section describes the current offense, the convicted individual's version of events, and the victim's statement.

b. The prior record section includes a discussion of the individual's prior juvenile record, prior adult record, correctional experience, pending charges, and the individual's explanation of his or her record.

c. The family background section provides general information on the convicted individual's family, as well as information on family attitudes and values, and family stability.

d. The personal history section potentially provides a range of information on the convicted individual, including: (1) academic and vocational skills; (2) mental ability; (3) employment; (4) chemical usage; (5) financial management; (6) marital relationships; (7) sexual behavior; (8) military service; (9) companions; (10) religion; (11) emotional health; (12) leisure activities; (13) physical health; and (14) residential history.

e. The summary and conclusions section includes the impressions of the correctional agent, restitution information, a recommendation for sentencing, and an anticipated supervision plan.

2. In cases generally involving more serious felony convictions, the SPD may also prepare a report for the court to consider at sentencing. As indicated earlier, the SPD report may provide information on: (a) the education, employment, and social history of the convicted individual; (b) what positive factors exist in the individual's life that may help the individual to make more positive choices in the future; and (c) sentencing and rehabilitative options the court may consider, including an assessment of available community-based treatment programs that could assist the individual to address behavioral problems that may have contributed to the criminal conduct. The SPD indicates that such reports are prepared in approximately 30-40% of its cases where an individual is convicted of a felony.

3. The criminal justice system is premised on the notion that just conclusions are reached when the district attorney can advocate for a finding of guilt on behalf of the state, and the SPD can advocate for the individual accused of a crime. In effectuating this system, the SPD reports before sentencing permit the Office to advocate on behalf of the individual.

4. The Effective Justice Strategies Subcommittee with the courts has been studying the issue of when and if an individual may be safely diverted from a jail or prison sentence. In order to facilitate informed determinations, the Subcommittee recommended a process entitled AIM (assess, inform, and measure). The AIM process has been substantially included in the bill's recommendations for grant funding to Milwaukee County for presentencing assessments.

5. While county staff do not prepare such reports under current law, the provisions of the bill would provide resources to Milwaukee County to permit county staff to prepare, or outsource the preparation of, presentencing assessments for a targeted group of offenders convicted of a Class F (maximum prison sentence of seven and one-half years plus maximum extended

supervision of five years) through Class I (maximum of 18 months prison and two years extended supervision) felony, or a misdemeanor (one year or less in county jail). At least 50% of the assessments performed would have to be of persons subject to sentencing in connection with a felony. Each presentencing assessment would have to include the following information: (a) the risk that the individual will commit further crimes; (b) the needs of the individual that are directly related to criminal behavior; (c) the likelihood that the individual will respond positively to community-based treatment for the assessed needs; and (d) an assessment of the availability of community-based treatment programs to serve the individual.

6. The envisioned program, however, would not only specify required information to be provided in the presentencing assessments, but would also specify required follow-up analysis on the effectiveness of the assessments and the program as a whole. The program would require collection and dissemination of information relating to the: (a) accuracy of assessments performed; (b) value and usefulness of information contained in the assessment reports for purposes of making sentencing decisions; (c) effectiveness of community-based treatment programs in addressing the assessed needs of offenders; and (d) effect of the treatment programs with respect to recidivism.

7. Both Corrections and the SPD indicate that the recommended program would add services and information to aid the court in sentencing that are not provided, or not provided to the same degree, by the reports currently generated by these agencies. In addition, neither agency is able to provide consistent follow-up on the accuracy and effectiveness of their reports that is envisioned for the recommended program.

8. There are currently five pilot projects underway in Eau Claire, La Crosse, Marathon, Iowa, and Portage Counties, to implement the AIM process that is also envisioned for Milwaukee County. These counties are utilizing base local resources to implement these pilot projects.

9. In 2005-06, approximately 42% of the Wisconsin prison system's average daily population had been admitted from Milwaukee County. As such a pilot project (particularly with the follow-up component on the accuracy and effectiveness of the presentencing assessments) has the potential to provide valuable information to policymakers that could be given wider application if successful, the Committee could consider approving the presentencing assessment grant program for Milwaukee County.

10. At the current time, however, it is unclear: (a) who in Milwaukee County government would be responsible for taking the lead to develop and administer the program; (b) to what degree the courts, prosecutors, and public defenders would be involved in developing the program; (c) which group(s) of offenders would be targeted for assistance under the program; (d) how the program intends to assess the risk that offenders may commit further crimes; (e) which needs that are directly related to criminal behavior that the program will address; (f) how the program will assess the likelihood that offenders will respond positively to community-based treatment; (g) what criteria will be utilized to make assessment of the availability of community-based treatment programs to serve the offenders; (h) how the accuracy of presentencing assessments will be determined; (i) how the effectiveness of community-based treatment programs in addressing

the needs of offenders will be measured; and (j) how the effectiveness of treatment programs in reducing recidivism will be measured.

11. As the Legislature has a substantial role in establishing criminal justice policy, and as any possible future broader implementation of the pilot project would require the approval of the Legislature, the Committee may wish to consider placing the recommended funding in the Joint Committee on Finance's GPR supplemental appropriation for possible future release to OJA to fund presentencing assessments in Milwaukee County. Under this alternative, OJA would be required to submit any approved plan for the preparation of presentencing assessments of offenders in Milwaukee County to the Committee for its review and approval.

12. As it may be a substantial undertaking to develop an implementation plan for this pilot project in Milwaukee County, and as the level of funding for this pilot project was determined by balancing needs with available state funding, the Committee could consider modifying the recommendation to delete funding in 2007-08, but continue to provide \$500,000 GPR in 2008-09 to permit this pilot project to proceed.

13. As five other counties are implementing these ideas on a pilot basis utilizing base local resources, the Committee could also consider deleting the recommended funding with an expectation that Milwaukee County will also implement this pilot project utilizing local base resources. It could be argued, however, that the pilot project would be more likely to generate meaningful outcomes and data if resources are provided.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to provide \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, for a grant to the county that has the highest violent crime rate, as reported by the Department of Administration's Office of Justice Assistance (OJA), to fund the preparation of presentencing assessments of offenders. Amend OJA's GPR annual grants for county alcohol and other drug abuse programs appropriation, to permit OJA to provide this grant funding. Approve non-statutory language requiring development of a plan for conducting presentencing assessments.

ALT 1	Change to Bill Funding	Change to Base Funding
GPR	\$0	\$750,000

2. Modify the recommendation by placing \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, in the Joint Committee on Finance's GPR supplemental appropriation for possible future release to OJA to provide grant funding to the county with the highest violent crime rate, to fund the preparation of presentencing assessments of offenders. Require OJA to submit the approved plan for the preparation of presentencing assessments of offenders to the Joint Committee

on Finance.

ALT 2	Change to Bill Funding	Change to Base Funding
GPR	\$0	\$750,000

3. Modify the recommendation by placing \$500,000 GPR in 2008-09, in the Joint Committee on Finance's GPR supplemental appropriation for possible future release to OJA to provide grant funding to the county with the highest violent crime rate, to fund the preparation of presentencing assessments of offenders. Require OJA to submit the approved plan for the preparation of presentencing assessments of offenders to the Joint Committee on Finance.

ALT 3	Change to Bill Funding	Change to Base Funding
GPR	-\$250,000	\$500,000

4. Delete provision.

ALT 4	Change to Bill Funding	Change to Base Funding
GPR	-\$750,000	\$0

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