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*Testimony before the Senate Committee on Judiciary and Public Safety
State Senator André Jacque
March 19th, 2019*

Chairman Wanggaard and Members of the Senate Committee on Judiciary and Public Safety,

Thank you for holding this hearing and the opportunity to testify before you today in support of Senate Bill 70. This common sense legislation will close a correctional system safety loophole by aligning the penalty for sneaking in a prohibited item for personal use with the penalty under current law for sneaking in a prohibited item with intent to give that item to another person.

Inmates sometimes attempt to conceal contraband in an attempt to sneak it into the facility while being booked into jail. Depending on the contraband it may or may not be a crime. Illegal drugs or an item snuck in and given to another person currently constitutes a crime, and the person can be charged. However, if the person tries to sneak something in that is not illegal to possess and keeps it for themselves at the time they are caught with it, it cannot be prosecuted beyond a rules violation, whether that item might be a phone that could facilitate other crimes, something that can be fashioned into a weapon or contain flammable liquid, or even a handcuff key, which is not illegal to possess and not a crime. These items are serious problems in a correctional setting. The idea for Senate Bill 70 came from corrections and law enforcement officers in Northeast Wisconsin, including those here to testify today.

SB 70 has strong support from the Badger State Sheriffs, the Wisconsin Counties Association, and the Wisconsin Sheriffs and Deputy Sheriffs Association. We ask that you join them and your colleagues in supporting this common sense fix to ensure safety within the correctional system.

Thank you for your consideration of Senate Bill 70.



RON TUSLER

STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

**Testimony Before the
Senate Committee on Judiciary and Public Safety
on
Senate Bill 70
March 19, 2019**

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on SB 70, relating to bringing contraband into a jail or prison and providing a penalty. This bill closes a simple loophole that individuals being booked in a jail or prison are exploiting to avoid criminal prosecution.

Under current law, anyone who attempts to smuggle something into a jail or prison *with the intent to deliver it to an inmate* is guilty of a Class I felony.¹ Clearly sheriffs, wardens, and the public at large would not want something an inmate ought not have while incarcerated, such as drugs, a firearm or other weapon, or a handcuff key, be delivered to them, and charge the person assisting the inmate with a crime. This statute, or other statutes, already wisely criminalize these actions.

Unfortunately, §302.095 leaves the proverbial jailhouse door open to smuggle in items that are not already illegal to possess, for example a handcuff key, pen, or paperclip, *for personal use*; this loophole is being exploited and must be closed to ensure the safety of our law enforcement and corrections personnel and other inmates. While these legally-possessable items are usually found and confiscated during booking as contrary to jail or prison policy, there is no consequence for attempting to outsmart facility personnel.

Absent a deterrent, this loophole encourages individuals being taken to jail or prison to try to smuggle in a handcuff key or other item for personal use that could potentially endanger facility personnel or other inmates. This bill closes this loophole and creates a deterrent by criminalizing possession of these items for self-use as a Class I felony, the existing statute's penalty.²

Thank you for your time. I am happy to answer any questions.

¹ Wis. Stat. §302.095.

² A Class I felony carries a penalty of a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both. Wis. Stat. §939.50(3)(i).



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Public Hearing Testimony on Senate Bill 70 & Assembly Bill 63

March 16, 2019

This bill is supported by Washington County Sheriff Martin Schulteis and Jail Captain Scott Lehman. There is a loophole currently within the statutes that does not allow for a district attorney to charge an inmate with a crime if the inmate is in possession of an item that is legal to possess yet against jail policy.

The best example is a handcuff key. Anybody in this hearing room could possess that key; however, none of us should be allowed to legally possess a key in a prison or jail. If a key were to be in a possession of an inmate, the security risk could be significant. Another example would be over the counter medications such as ibuprofen.

In recent years, Washington County has faced this "loophole." In the past, the jail staff would have to prove intent to deliver for the district attorney to file charges. With most of these issues, the goal is to handle the issue within jail sanctions. In extreme cases, a referral to the district attorney would be necessary.

The ultimate goal is to ensure safety within the jail. We believe this bill achieves that goal.

Respectfully Submitted,
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