



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #1142

Pharmacological Treatment of Child Sex Offenders (Corrections)

[LFB Summary of the Governor's Budget Reform Bill: Page 34, #10]

CURRENT LAW

The pharmacological treatment of child sex offenders program (chemical castration) is funded at \$288,100 GPR in 2001-02 and \$342,500 GPR in 2002-03 with 1.0 GPR position annually.

GOVERNOR

Delete \$342,500 GPR and 1.0 GPR position in 2002-03 and repeal the chemical castration program.

DISCUSSION POINTS

1. The pharmacological treatment program for persons convicted of serious child sex offenses (first- or second-degree sexual assault of a child, or engaging in repeated acts of sexual assault of the same child) with a victim under the age of 13 years, was created in 1997 Act 284. 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. The Department may also require pharmacological treatment as a condition of probation. Current law specifies that in deciding whether 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. In addition, under s. 301.03(11), Corrections is required to, by February 1, 2002, submit a report to the Legislature concerning the extent to which the Department has required chemical castration as a condition of probation or

parole and the effectiveness of the treatment in the cases in which its use has been required.

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 potential sexually violent persons under Chapter 980. Corrections confirms through file review that the victim was under the age of 13 at the time the offense was committed. 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 four to 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 Department of Corrections 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, this 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 60 to 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. Once the offender consents to the evaluation, 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 elected to begin treatment while the offender is still incarcerated to facilitate closer monitoring. In addition, injections usually occur weekly until an acceptable 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 meet 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 acknowledgment and a medical screening is completed by the program specialist. 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. As of January 22, 2002, there were six offenders receiving injections under the chemical castration program (two inmates, one offender placed in the program as an alternative to revocation [ATR] and three in the community). In addition, there are 17 other offenders currently in the earlier stages to the evaluation process: three in evaluation, two awaiting evaluation, three ATRs who have been deemed medically appropriate, eight inmates who have been deemed medically appropriate and one awaiting transfer to the Racine Correctional Institution for evaluation. Since evaluations for the program began, 523 inmate cases have been reviewed for statutory eligibility, with 217 inmates determined to be statutorily eligible. Given the voluntary nature of the program, it is not known how many of the statutorily-eligible offenders will decide to participate in the program.

5. The program became effective in January, 1999. Offender evaluation began in January, 2001, and the first offender began treatment under the program in May, 2001. During the intervening period, Corrections promulgated rules for the program, developed policies and procedures, and hired and trained program staff. Funding for the program in the 1999-01 biennium was \$678,800 GPR in 1999-00 and \$681,400 GPR in 2000-01 with 1.0 GPR position annually and was intended to fund the treatment of up to 50 offenders. In 1999-00, the Joint Committee on Finance transferred \$653,500 GPR from the program to other uses for the Department. In that year the program had expenditures of \$23,300 related to limited-term employees and supplies and services. In 2000-01, the program had expenditures of \$122,300 related to salaries, fringe benefits and supplies and services, and lapsed \$559,100.

6. Under 2001 Act 16, funding for the chemical castration program was \$676,000 GPR annually. On November 5, 2001, funding for the program was reduced on a one-time basis to \$288,100 GPR in 2001-02 and \$344,400 GPR in 2002-03 by the Joint Committee on Finance under s. 13.10 in order to fund additional district attorney positions. At the December, 2001, s. 13.10 meeting, the 2002-03 appropriation was further reduced by \$1,900 GPR, to \$342,500 GPR, as part

of Corrections' reallocation of across-the-board reductions. Remaining funding is estimated to support treatment of nine offenders in 2001-02 and 13 offenders in 2002-03.

7. Given that the program currently has six offenders, the Committee could provide funding to continue the program at this level in 2002-03. Under this alternative, \$253,300 GPR could be provided for the 1.0 GPR position, and for supplies and services, including medication. Cost per offender in the program under the alternative would be approximately \$42,200 annually, compared to \$26,300 currently budgeted for the program.

8. Under SS AB 1, 2002-03 funding for the program is deleted and all statutory language removed, effective July 1, 2002. If the Committee wishes to retain the program, the provision could be deleted.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to delete \$342,500 GPR and 1.0 GPR position in 2002-03 and repeal the chemical castration program, effective July 1, 2002.

2. Modify the bill to provide \$253,300 GPR and 1.0 GPR position in 2002-03 to fund the chemical castration program for six offenders annually. Delete the repeal of statutory language associated with the program.

Alternative 2	GPR
2001-03 FUNDING	\$253,300
2002-03 POSITIONS	1.00

3. Delete provision.

Alternative 3	GPR
2001-03 FUNDING	\$342,500
2002-03 POSITIONS	1.00

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