



RON TUSLER

STATE REPRESENTATIVE • 3rd ASSEMBLY DISTRICT

**Testimony Before the
Assembly Committee on Corrections
on
Assembly Bill 63
March 19, 2019**

Mr. Chairman and members of the Committee, thank you for the opportunity to testify on AB 63, 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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March 19, 2019

Greetings,

Thank you for allowing me to address you today.

My name is Dave Kiesner and I am the jail administrator at the Outagamie County jail.

In Corrections for over 30 years.

I'm here on behalf of my staff at the Outagamie County Jail in support of Senate Bill 70 (Assembly Bill 63). Which is to adjust state statute 302.095 and to hold the inmate having possession of contraband accountable for their actions.

Outagamie County Jail....556 beds...variety type of inmates....which are housed for a variety of reason ranging from traffic cases to homicide cases and everything in between, minimum to max classification, most cooperative, some not so much. One thing that is common for all inmates is that all don't want to be there and some seek power over others through the possession contraband.

With this Bill, we have an opportunity to make a positive change and to make a change that will ultimately provide a safer environment for inmates and officers.

Working in a county jail we find that at times people will 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. For instance, if it is illegal drugs the person can be charged. Or if a person sneaks any item in and gives it to another person, this is also a crime and the person can be charged. Where there is a problem is if the person tries to sneak something in that is not illegal to possess and keeps it for him/herself... A good example would be a person sneaks in a handcuff key, not illegal to possess and not a crime. So no real consequences if caught. Although a handcuff key is a big problem in a correctional setting.

Contraband in jails is always a security concern for jails and jail staff no matter the size of the jail and is dangerous for inmates and staff. Doing a quick internet search I find tragedies that can occur when this contraband is not found. An incident in Iowa where a transport officer is killed by an inmate that concealed a handcuff key in his hair, removed the handcuffs and leg restraints and then slash the officer with a homemade shank. Then I find Officers in Mississippi and Ohio who are injured by an inmate with a homemade shank. I am thankful that during my brief internet search officer injuries and deaths at the hands of inmates with contraband were not on the top of search in Wisconsin.

Closer to home, I'd like to talk about our jail. Someone once said a picture is worth a thousand words. I brought contraband items we have found in our jail over the years (show). These are items that innovative inmates have manufactured while in custody. You will see items such as shanks, sharpened staples as tattoo equipment, and dominos in a sock as a clubbed weapon.

Although these items can be potential very harmful to officers and inmates, under current law when an inmate is found in possession of items like these, they receive a jail rules violation write up and will usually spend up to 10 days in segregation. That's it, it's a rule violation. The current statute is written in such a manner that the contraband item has to be given to another inmate, before it becomes a crime. Still the inmate that is now in possession of the contraband would only face a jail rules violation. Again, the inmate in possession of the contraband item, such as these, is not and cannot be held criminally responsible under the current law.

Then there are the items people try to sneak into jail during the intake process. One example I have here is a urininator used to cheat a drug screen, another item of value to an inmate is a cellphone and, although not shown here, we even found a handcuff key, these items are not illegal to possess in the community but are of value to inmates in a correctional setting.

I'd like to share a two page list of contraband taken during intake that we have found over the past 12 months. These are mostly illegal items, but it shows that people do try to sneak items into jail. I also have a picture from our body scanner which shows the great lengths people are willing to go in attempting to sneak in just tobacco.

This Bill will add consequences which will aid in helping deter inmates from possessing contraband. Holding inmates accountable for their actions makes them better prepared to abide by the rules of society once released. There are three things that are important at every jail: Safety of the staff, security of the facility and inmate wellbeing. With your support, Senate Bill 70 (Assembly Bill 63) will have a positive impact on each of these.

Thank you.

CONTRABAND FOUND BOOKING

Date	Report#	Description
4/11/2018	180015288	Scale and glass pipe in waist area.
4/22/2018	180015330	Little bag filled with blue pills, leafy green substance that I know to be marijuana along with white rocks packed into little individual bags.
5/8/2018	180015375	Bag of suspected met.
5/21/2018	180015434	White Hard Rock Type Substance
5/22/2018	180015432	Suspected Marijuana in Property Bag
6/2/2018	180015497	Glass pipe in bra.
6/11/2018	180015510	Glass vial of urine found during a UA
6/16/2018	180015525	Crystal White Powder
6/16/2018	180015528	Marijuana and Baggie with orange pill.
6/18/2018	180015546	Methamphetamine in Pill Bottle
7/6/2018	180015615	Scale found in 4 HLD 2 by inmate worker.
7/11/2018	180015642	7 to 10 small bags of marijuana
7/17/2018	180015668	Urine bottle taped to leg.
7/18/2018	180015673	Marijuana in Pill Bottle
7/23/2018	180015687	Marijuana rolled up in TP

CONTRABAND FOUND BOOKING

8/16/2018	180015771	Urine bottle
8/13/2018	180015755	Baggie of Crystallized Rocks
8/18/2018	180015841	Baggie of white substance.
9/10/2018	18-0029	White rock like substance in sock.
10/10/2018	18-0084	White crystal substance in rectal area.
10/25/2018	18-0150	Scale and Syringe with clear liquid
10/29/2018	18-0180	Baggie with white powder under breast.
11/3/2018	18-0209	Pipe in front pocket.
12/9/2018	18-0362	Wrapper with suspected marijuana inside of it, 470.
1/11/2019	19-0049	Tobacco hidden inside of body
2/1/2019	19-0094	Small baggies with rocklike substances
2/8/2019	19-0130	Small baggies with rocklike substances
2/16/2019	19-0152	Small baggies with green leafy substance.
2/19/2019	19-0164	Pills found in sock.
3/3/2019	19-0209	Needle and brown/white rock like substances in bra.

SECURE PASS POSITIVE

