BRENT JACOBSON

STATE REPRESENTATIVE • 87th ASSEMBLY DISTRICT

Testimony in Support of Assembly Bill 85

Assembly Committee on Judiciary

March 4th 2025

Thank you, Chairman Tusler and committee members, for hearing testimony on Assembly Bill 85, which promotes public safety and accountability in our criminal justice system by requiring the Department of Corrections to recommend revoking extended supervision, probation, or parole for an individual charged with a new crime while on release.

It may come as a surprise, but a convicted criminal on community supervision is not immediately revoked if they are charged with another crime. Under current statute, whether such individuals are reincarcerated or allowed to remain on our streets is decided by an administrative law judge. However, in order for a judge to hear a revocation case, revocation must first be recommended by an agent of the Department of Corrections. According to the DOC's own estimates, in 2019 there were 6,280 individuals on community supervision who were charged with a new crime, but not revoked.

AB 85 addresses that discrepancy by requiring DOC to recommend revoking community supervision when an individual on probation, parole, or extended supervision is charged with a new crime. I want to emphasize that AB 85 would not mandate revoking an individual on probation, parole, or extended supervision. This legislation simply ensures that when a convicted criminal is charged with another crime, their case is heard in court. As homicide and violent crime in Wisconsin trend upward, especially in our major cities, we cannot allow dangerous individuals to remain on our streets.

I am all for giving convicted criminals the chance to reintegrate into our communities. However, it is unacceptable to give repeat criminals the opportunity to continue to put our families and neighbors at risk again and again without facing consequences. As state representatives, we owe it to our constituents to keep them from being victimized by repeat offenders already on their second, or even third or fourth chance, or more.

Thank you for your time. I would be happy to answer any questions you may have.

Post Office Box 8952 • Madison, WI 53708-8952 • (608) 237-9187 • Toll-Free: (888) 534-0087
Rep.Brent.Jacobson@legis.wi.gov

ROB HUTTON

STATE SENATOR | 5th DISTRICT

Wisconsin State Capitol | P.O. Box 7882 · Madison, WI 53707-7882 | (608) 266-2512 | Sen.Hutton@legis.wisconsin.gov

March 4, 2025

TO: Members of the Assembly Committee on Judiciary

FR: Sen. Rob Hutton

RE: Assembly Bill 85: recommendation to revoke extended supervision, parole, or probation if a person is charged with a crime.

Thank you for holding a hearing on Assembly Bill 85. This legislation is part of a package of bills addressing the revolving door of crime and the cycle of lawlessness that a too-often lenient justice system perpetuates.

Far too often, law abiding citizens become victims of crimes committed by repeat offenders who have been let out on parole, probation or extended supervision and who are wantonly violating the terms of that release.

When a prisoner is granted release before the completion of their sentence, it comes with an expectation of good behavior. An individual who has been charged with a new crime while on release has violated their promise of good behavior and should have their release revoked. However, under current law, this is frequently not the case.

Under this legislation, the Department of Corrections would be required to recommend revoking extended supervision, parole, or probation for someone who has been charged with a new crime while on release.

This legislation is based on a bill from last session. In its fiscal estimate for that bill, the Department of Corrections reported that in FY 2019 there were 6,280 criminals released on community supervision that were charged with a new crime and remained on community supervision, according to information from CCAP.

While I am in favor of giving an offender who sincerely wants to reform their behavior a second chance, we cannot give those who have repeatedly broken our laws and flouted the legal system the opportunity to put our communities at risk if they demonstrate an unwillingness to reform.

This legislation will provide prosecutors and our judicial system with another tool to keep dangerous individuals with a demonstrated lack of interest in reform off our streets, which should be a goal of all legislators.

Again, thank you for your time and consideration of this bill. I respectfully ask for your support.

WISCONSIN DEPARTMENT OF CORRECTIONS

Governor Tony Evers / Secretary Jared Hoy

To: Chairman Tusler, Assembly Committee on Judiciary

From: Anna Neal, Legislative Director, Wisconsin Department of Corrections

Date: March 4, 2025

RE: AB 85 - Relating to: recommendation to revoke extended supervision, parole, or probation if a person is charged with a crime.

Good Afternoon Chairperson Tusler and esteemed members of the committee.

My name is Anna Neal and I serve as the Legislative Director for the Department of Corrections (DOC). I appreciate the opportunity to provide written testimony in opposition to Assembly Bill 85, which proposes the revocation of extended supervision, parole or probation upon a person being charged with a crime.

Our agency understands and appreciates the intent behind AB 85, which aims to enhance public safety and accountability within the justice system. Keeping our communities safe is a shared priority. DOC also understands the importance of individuals on community supervision being held responsible for their actions. As corrections professionals, we are continuously working to prioritize public safety and balance this with successful reintegration and rehabilitation practices, while using taxpayer funding responsibly. We use evidence and research to help determine where to thread the needle and identify the most appropriate response to use when a client engages in any behavior in violation of their supervision, including criminal behavior.

While AB 85 is well intentioned, its impact could have significant unintended consequences. The bill requires DOC to recommend revocation when a person is charged with a crime, which sets the process in motion at the most severe and punitive level. Automatically initiating revocation overlooks the opportunity for a more measured, case-by-case assessment and may unnecessarily disrupt rehabilitation efforts. Additionally, the bill lacks clarity on what constitutes formal charges – whether it refers to charges filed by law enforcement or those formally issued by a district attorney, creating ambiguity in its application. Further, revocation by code and statute is anticipated to be a fast process. There are times where evidence, both physical and testimonial, may not be available until the pending criminal case is developed. This bill may hinder the Department's ability to present a solid case at the administrative hearing, which could result in a person not being revoked and released to the community pending their criminal charges.

Being on community supervision (probation, parole and/or extended supervision) allows DOC the ability to investigate any and all violations and respond accordingly. Our agency uses an Evidenced Based Response to Violations (EBRV) when an individual violates a condition of their supervision. For example, when a client

commits a new crime, there are several factors DOC currently uses to decide the level of response, such as a client's risk level and the severity of the violation. An EBRV Matrix is then used to find the recommended response level (see below). Aggravating factors can be applied to increase the level of response.

Severity of Violation	Risk Level: LOW	Risk Level: MEDIUM	Risk Level: HIGH
LOW	Low Response	Low Response	Medium Response
MEDIUM	Low Response	Medium Response	High Response
HIGH	Medium Response	High Response	High Response
VERY HIGH	High Response	Very High Response	Very High Response

It is the Division of Community Corrections (DCC's) practice to consider alternatives to revocation when treatment or other less restrictive interventions are deemed appropriate for addressing the behavior, without undermining safety. DCC uses a variety of tools in addition to revocation to address behavior when deemed appropriate. Some of these include Electronic Monitoring, Short Term Sanctions, Residential Treatment, Treatment Court, Out-Patient Treatment, or Temporary Housing.

Implementing evidenced-based responses to violations is not unique to Wisconsin. It is a well-established practice across the nation that aligns with national trends for community supervision. Utilizing these approaches helps to employ strategies that effectively reduce recidivism and improve public safety. Moving away from this system of responses to violations would be a departure from national standards in corrections.

With that being said, revoking supervision is often an appropriate response when new criminal behavior is identified. Revocation, however, also leads to increased incarceration rates, straining correctional facilities and resources. It is our responsibility as a public entity to engage in the responsible use of our resources and consider any safe alternatives available that may better meet the needs of the client and community. If we did not consider such alternatives, it could inadvertently divert attention from individuals who do pose a greater threat to public safety and require the limited resources available from incarceration.

In a special report released in 2019, the Badger Institute collected data on revocations in Wisconsin and found that more than half of people in prison are serving a term of revocation. A study sample further showed that while 49% of revocations led to a criminal conviction, 51% did not. AB 85 would remove DOC's discretion on a large portion of the population that may not result in a criminal conviction, increasing costs and rapidly increasing our prison population.

Another consideration of AB 85 is the fiscal impact it would have. A new fiscal estimate was assigned to DOC on 3/3/2025 that will help us to better identify the fiscal impact of this bill, however last session, DOC completed a fiscal estimate for *2023 AB 310: recommendation to revoke extended supervision, parole or probation if a person is charged with a crime and expunging a criminal record of a crime*. In that report, DOC requested data from Wisconsin's Court System Circuit Court Access (CCAP) to determine the number of clients under

community supervision during FY 19 and were charged with a crime. Using that data, the DOC estimated 6,280 clients on community supervision were charged with a new crime and remained on community supervision. Under the bill, DOC would be required to recommend revoking the supervision of all 6,280 individuals. Knowing that Administrative Law Judges affirm approximately 47% of revocations recommended by DOC, it is estimated there would be an average increased daily population of 1,599 in the first year and 4,673 after 19 months. It was estimated this would increase operations costs by $72,772,574 during the first year, and have a permanent increased operations cost of $209,284,074 after the population is annualized during the second year of enactment. The impact of such legislation would have unsustainable costs to DOC and our state.

Finally, AB 85 inaccurately states the Department "recommends" revocation rather than "pursues" revocation. While DOC does internally refer an individual for revocation, it is not a recommendation to the Division of Hearings and Appeals. Instead, under the applicable statutes, once the Department determines the person violated a rule or condition of supervision, the person is afforded a hearing before the Division of Hearings on those allegations, unless the person waives the hearing, in which case the Department is the reviewing authority. The only recommendation made is to the amount of time to be served upon revocation of extended supervision or parole.

It is the Department's recommendation to allow DOC to continue basing decisions regarding revocation on evidence and research, considering factors such as the nature of the new charge, the individuals supervision history and the overall risk to public safety. Allowing for alternative measures and graduated sanctions allows DOC to address underlying issues for behaviors and increases the long-term safety of our communities. Maintaining public safety will continue to be paramount to the Department's mission, but it remains crucial to balance this objective with the effective use of correctional resources and taxpayer's money.

DOC remains committed to working with this committee and legislature if there are additional questions or concerns related to AB 85 and/or its impact.

Thank you.

March 4, 2025

To: Chairman Tusler and Members of the Assembly Committee on Judiciary

From: Wisconsin Chiefs of Police Association

Re: Support Assembly Bill 85 Revocation Legislation

Chairman Tusler, thank you for your willingness to hold a hearing on this legislation. We would also like to thank the authors, Representative Jacobson and Senator Hutton for introducing this bill.

We urge support of Assembly Bill 85.

This bill requires the Department of Corrections to recommend revoking a person's extended supervision, parole, or probation if the person is charged with a crime while on release.

The Wisconsin Chiefs of Police Association constantly look at ways to help ensure that our communities are safe. We believe that this is common sense legislation which ensures that action is taken when those who violate supervision are held accountable.

By revoking parole of someone who commits another crime while out in public, we are making our communities safer.

The Wisconsin Chiefs of Police Association support this legislation and ask that the committee move forward on this legislation.

We would be happy to answer any questions regarding this legislation.

WISCONSIN STATE PUBLIC DEFENDERS
Mission driven. Client centered.

Assembly Committee on Judiciary
March 4, 2025

Chair Tusler and committee members,

Thank you for the opportunity to provide our perspective on the bills before the committee today. We are submitting our testimony for Assembly Bill 66 and Assembly Bill 85 together – though they seek to alter two different points of the criminal legal process, they ultimately share the same outcome: limiting power of executive branch entities and restricting the essential role of discretion.

Assembly Bill 66

The Wisconsin State Public Defenders oppose this bill and the proposed limitations placed on dismissal or amendment of charges and the restriction of deferred prosecution agreements. This bill creates a hand-picked list of charges that are ineligible for deferred prosecution agreements and must receive court approval to be amended or dismissed. The changes made in this bill dismantle the prosecutorial discretion that our legal system relies upon.

Prosecutors have broad discretion in deciding whether to prosecute a case and what charges to file. Those decisions are based upon the circumstances known to the prosecutor at the time. The factual basis for a specified charge can vary significantly – some allegations are more mitigating, while others are more aggravating. As the case progresses, the accused will have counsel to evaluate the evidence, investigate the allegations, and provide additional information to the prosecutor. Other witnesses, including alleged victims, may also provide additional information or express preferences about how the case is prosecuted, which may alter the prosecutor's assessment of the case. As a result, prosecutors may choose to dismiss or amend a charge for a variety of reasons – they may determine there is insufficient evidence to proceed to trial, there may be constitutional concerns with police action, or, most notably, the individual charged may be determined to be innocent upon further review. Restricting prosecutors' ability to dismiss or amend certain charges based upon their experience and the individual facts and circumstances strips them of their discretion.

Assembly Bill 85

The Wisconsin State Public Defenders oppose this bill and its proposed automatic revocation recommendations. Under the bill, probation and parole agents must recommend revocation if someone on probation, parole, or extended supervision is simply *charged* with a crime, not convicted, disregarding the core tenet of "innocent until proven guilty." As a result of this bill, more clients will face revocation proceedings, which means there will be a higher demand on an already limited resource: attorneys for SPD appointments.

Looking beyond the issue of resources, this bill is similar to AB 66 in that it seeks to eliminate the ability to assess the facts and circumstances surrounding allegations as well as the personal circumstances of the individual. Many people who are on supervision suffer from mental health challenges, as well as addiction related challenges. These challenges are complex and relapses happen. Revocation is not always the best recommendation, especially for people with complex needs, nor is it always the recommendation that leads to increased safety for community members. Oftentimes, alternatives to revocation are a better way to address the person's mental health or recovery needs – even when the person is alleged to have committed a new crime – and when agents are able to work with the people they supervise to best meet their needs, our communities are safer and healthier.

Conclusion

Taken together, these bills represent an attempt to restrict discretion in the criminal legal system and replace it with a one-size-fits-all automatic charging and sentencing structure. We have serious concerns that removing discretion would erase the years of progress we have made as a legal system in adopting evidence-based practices. As public defenders, we rely on prosecutors and parole agents to thoughtfully review the circumstances and use evidence-based decisionmaking to draw a conclusion. Evidence-based practices are in the best interest of our clients and our communities, and we oppose the efforts to ignore or restrict the use of these practices that have proven effective.

Thank you for the opportunity to share our concerns. If you have any questions, please contact our Government & Public Affairs Specialist, Elena Kruse at krusee@opd.wi.gov.

To:	Members, Senate Committee on Judiciary and Public Safety
From:	Badger State Sheriffs' Association Wisconsin Sheriffs and Deputy Sheriffs Association
Date:	March 4, 2025
RE:	**For Information Only** **Testimony on Assembly Bill 85 – Revocation Recommendation**

BSSA and WS&DSA submit these comments for information only regarding AB 85. Our organizations appreciate the authors' intention to focus on policies protecting victims, holding offenders accountable and targeting repeat violent offenders. However, Wisconsin Sheriffs are very concerned about the fiscal impact this legislation will have on county jails - big and small - across the state.

AB 85 requires the Department of Corrections (DOC) to recommend revoking a person's extended supervision, parole, or probation if the person is charged with a crime while on extended supervision, parole, or probation. Wis. Stat. § 302.33(2)(a)2 provides that DOC "shall not pay for [county jails for housing] persons who have pending criminal charges whether or not a departmental hold has been placed on the person." Mandating DOC to recommend revocation will certainly increase the number of individuals that will be in a county jail pending the hearing before the administrative law judge.

Using previous year's CCAP data, DOC estimates that assuming the judge affirms DOC's recommendation 47 percent of the time, there will be an increase of 6,280 revocation cases each year. This means 6,280 more individuals will be occupying county jails without reimbursement from DOC. Essentially, this bill is an unfunded mandate to Wisconsin county jails. One option to address the fiscal impact for county jails would be to require that DOC reimburse county jails for housing regardless of if the person has pending criminal charges. It should be noted that DOC also does not reimburse medical costs for individuals that have a pending criminal charge, which can also be a significant cost driver.

Furthermore, this bill does not consider the fiscal impact to the Department of Administration's Division of Hearings and Appeals (DOA DHA). If revocation hearings are backlogged due to an increased number of revocations, those individuals will be in jails longer. Wis. Stat. § 302.335(2)(b) requires final revocation hearings to begin within 50 calendar days after the person is detained in a county jail. The statutes provide for that time frame to be extended by 10 additional days. The ability of DOA DHA to have adequate resources and hold proceedings in a timely matter directly impacts the budgets of Wisconsin's county jails.

This legislation also negates prior legislation for more short-term sanctions. 2013 Wisconsin Act 196 required DOC to develop a system of short-term sanctions for violations of conditions of probation, parole, extended supervision, and deferred prosecution agreements. This system allows for offenders to be placed in a regional detention or a county jail for 90 days. According to DOC, under this bill, the system implemented under 2013 Act 196, would not be an option. This bill eliminates the discretion of DOC to make a recommendation and instead mandates DOC recommend revocation if there are criminal charges.

We ask that the committee consider the fiscal impact AB 85 will have on county jails. There is a cost to this proposed policy, and we ask that it is addressed before the bill advances further.

AMERICAN CIVIL LIBERTIES UNION
Wisconsin

207 East Buffalo Street, Ste 325
Milwaukee, WI 53202
(414) 272-4032
aclu-wi.org

March 4, 2025

Chair Tusler, Vice-Chair Jacobson, and Honorable Members of the Assembly Committee on Judiciary:

The American Civil Liberties Union of Wisconsin appreciates the opportunity to provide testimony in opposition to Assembly Bill 66, Assembly Bill 85, and Assembly Bill 87.

We cannot continue to double down on harmful policies that have pushed our correctional system to a breaking point and failed to actually improve safety and material conditions in Wisconsin communities. As a reminder, we have over 23,000 people incarcerated in state prisons, about 12,000 in county jails, and over 63,000 people on probation, parole, and extended supervision.

Devastatingly, Wisconsin has the highest Black incarceration rate in the country. Data shows that 1 in 36 Black Wisconsinites are currently incarcerated, meaning Black people are nearly 12 times more likely to be incarcerated than white people.[1] According to a study by the Wisconsin Court System, Native American men are 34% more likely and Black men are 28% more likely to be sentenced to prison than their white counterparts,[2] Wisconsin also has a higher percentage of people incarcerated for crimes committed as youth than any state in the country except Louisiana.[3]

We all want to live in safe and healthy communities, and legislation proposing changes to the criminal legal system and access to democracy for those impacted by the system should be focused on the most effective approaches to achieving that goal. AB-66, AB-85, and AB-87 would take us several enormous steps in the wrong direction.

Assembly Bill 66

AB-66 would require approval from the court any time a local prosecutor wants to dismiss or amend a criminal charge for a series of offenses "only if the court finds the action is consistent with the public's interest in deterring the commission of these crimes and with the legislature's intent" to "encourage the vigorous prosecution of persons who commit offenses that are covered crimes." Further, the bill would prohibit a prosecutor from entering into a deferred prosecution agreement "if a complaint or information is filed that alleges the person committed a covered crime or if the person is charged with a covered crime."

---

[1] Clare Amari, *Wisconsin imprisons 1 in 36 Black adults. No state has a higher rate.*, Wisconsin Watch (Oct. 13, 2021), https://wisconsinwatch.org/2021/10/wisconsin-imprisons-1-in-36-black-adults-no-state-has-a-higher-rate/

[2] DRAFT: *Race and Prison Sentencing in Wisconsin: Initial Outcomes of Felony Convictions, 2009-2018* (Jan. 2020), https://s3.documentcloud.org/documents/20478391/race-prison-sentence-felony-report-draft_2020_02_05.pdf.

[3] Alexander Shur, *Wisconsin has 2nd highest percentage of prisoners locked up for crimes committed as youth,* Wisconsin State Journal (May 23, 2023), https://madison.com/news/state-regional/government-politics/wisconsin-has-2nd-highest-percentage-of-prisoners-locked-up-for-crimes-committed-as-youth/article_4a6c1600-f5b7-11ed-9186-ffd641c2443d.html.

There are a multitude of reasons why a charge may be dismissed or amended by a prosecutor, including the innocence of an individual charged with a crime, insufficient evidence for a charge to stand, or constitutional concerns with police action. Procedural justice, fairness, and upholding the constitutional rights of the accused are foundational principles of the criminal legal system, not solely "vigorous prosecution" and "deterrence."

This bill would limit access to critically important diversion programs, particularly for individuals first charged with a crime as a young adult. Several jurisdictions throughout the state have implemented evidence-based early intervention programs that provide targeted interventions through diversion or deferred prosecution agreements that pair risk reduction strategies (such as therapy, community service, substance use treatment, and/or educational programming) with accountability measures. Research has shown that these programs maximize opportunities to support and encourage prosocial attitudes and behaviors among those who become involved in the system, while aiming to minimize collateral consequences for individuals who are system impacted.

In Wisconsin, approximately 1.4 million people have a criminal record,[4] resulting in countless collateral consequences[5] that make successful reentry a daunting task. People often struggle mightily to land a stable job, secure housing, access public benefits, and get an education. Criminal records live on well after a person has done their time, functioning as a penalty that follows people forever as they navigate a world in which meaningful opportunities for growth and self-improvement are closed off to them. By taking away local prosecutors' discretion on the front end of the system to account for individual circumstances in cases when making charging decisions, entering plea agreements, and offering opportunities to engage in a deferred prosecution program, AB-66 will exacerbate the downstream social and economic harms of overcriminalization to individuals, families, and communities.

Assembly Bill 85

This bill would require DOC to recommend revoking a person's probation, parole, or extended supervision for just being charged with–and not convicted of–a crime. In Wisconsin, the number or people on extended supervision exceeds the national average, and the typical length of supervision is nearly twice the national average.[6] As a report from the Badger Institute notes, "There is little evidence that society benefits from such lengthy periods of supervision."[7] Revocations are already the primary driver of incarceration in Wisconsin—revocations for rule violations and revocations resulting in new convictions accounted for an extraordinary 60% of the total 8,155 new prison admissions in 2024.[8]

---

[4] "A Fresh Start: Wisconsin's Atypical Expungement Law and Options for Reform," Wisconsin Policy Forum (June 2018), https://wispolicyforum.org/research/a-fresh-start-wisconsins-atypical-expungement-law-and-options-for-reform/.

[5] National Inventory of Collateral Consequences of Conviction, https://niccc.nationalreentryresourcecenter.org/consequences; Wisconsin Snapshot of Employment-Related Collateral Consequences, https://csgjusticecenter.org/wp-content/uploads/2021/02/collateral-consequences-wisconsin.pdf.

[6] "The Wisconsin Community Corrections Story," Columbia University Justice Lab (January 2019), https://justicelab.columbia.edu/sites/default/files/content/Wisconsin%20Community%20Corrections%20Story%20final%20online%20copy.pdf.

[7] "Ex-Offenders Under Watch," Badger Institute (July 2019), https://www.badgerinstitute.org/wp-content/uploads/2022/08/RevocationPDF.pdf.

[8] https://doc.wi.gov/Pages/DataResearch/PrisonAdmissions.aspx

Lowering the Constitutional Burden for Conviction
Taking away discretion from DOC agents and automatically initiating an administrative revocation to send a person to prison for being charged with a crime raises constitutional concerns. If an individual on supervision is charged with a new crime, and as a result of this bill, the new crime is handled as an administrative revocation rather than a new circuit court case, the practical burden of proof required for a period of incarceration on a new charge would essentially become "probable cause" (the standard for issuing the charge itself) rather than "beyond a reasonable doubt."

The reality is the overwhelming majority of revocation proceedings decided by an administrative law judge result in re-incarceration. While AB-85 would mandate a revocation *recommendation*, in light of the conditions of release and the lower burdens and standards of the administrative revocation process, this functionally means mandatory revocation in most cases.

Two Billion Dollar Price Tag
According to the Fiscal Estimate completed by the Department of Corrections, for a previous iteration of this bill (2023 SB 309) this proposal would cost a fortune:

- **Over $1.7 million annually** for increased revocation cases adjudicated by the Department of Administration's Division of Hearings and Appeals;
- **$1.3 to $1.67 billion** for the construction of two new prisons to accommodate the significant increase in the incarcerated population;
- **Over $72.7 million** in increased operations costs during the first year of enactment
- **Over $209 million** in a permanent increased operations costs after the population is annualized during the second year of enactment.

Rather than spending billions in taxpayer dollars to trap people in a revolving door of incarceration and supervision, people on parole, probation, or extended supervision should be given the support and opportunities they need to thrive in their community.

Assembly Bill 87
In part, AB-87 would prevent people with felony convictions from regaining their constitutional right to vote until they have paid all "fines, costs, fees, surcharges, and restitution" imposed as part of their sentence. Put simply, this proposal would create a modern-day poll tax in Wisconsin.

Voting is the cornerstone of our democracy and the fundamental right upon which all our civil liberties rest. Before the Supreme Court outlawed them in the 1960s, poll taxes had been widespread in American elections throughout history, imposed as a means of systematically disenfranchising populations that those in power wanted to keep from voting – namely Black people, women, and poor people. Today, most Americans rightfully look back at poll taxes as a disgraceful and racist stain on our democracy, which is what makes the emerging effort to reinvent them for the 21st century so horrifying.

In light of the profound racial disparities in Wisconsin's criminal legal system mentioned at the beginning of this testimony, we know exactly who AB-87 will disenfranchise the most.

A patchwork of state felony disenfranchisement laws, varying in severity from state to state, prevent an estimated 4.4 million Americans with felony convictions from voting.[9] Confusion about and misapplication of these laws de facto disenfranchise countless other Americans.

Under current law, Wisconsinites who have past felony convictions can legally vote once they have finished serving their sentence and are no longer on probation, parole, or extended supervision—also known as being "off-paper." According to DOC, 45,060 people were on some form of supervision for a felony as of June 2024.[10] This means in addition to the 23,000 Wisconsinites incarcerated in DOC institutions, over 45,000 Wisconsinites are disenfranchised because they are "on paper." AB-87 would add the additional stipulation making restoration of their voting rights contingent upon the full repayment of any fines, costs, fees, surcharges, and restitution related to their convictions. In effect, the constitutional rights of thousands of people in Wisconsin would come at a cost.

The combined carceral debt of formerly incarcerated people in the United States adds up to about $50 billion.[11] This is a staggering figure, considering the average returning citizen with a job earns only a little more than $10,000 in their first year back in the community.

In Wisconsin, the mountain of system-imposed debt begins pre-trial, as state statutes give counties discretion to charge incarcerated people a fee for their incarceration, including booking fees or a daily rate for room and board. In 2019, Wisconsin Watch found that at least 23 Wisconsin counties assess "pay-to-stay" fees.[12] Further, Wisconsin jails and telecommunications companies extract more money from incarcerated people and their families, with rates for phone calls as high as $14.77 for a 15-minute call in some counties.[13] While the Federal Communications Commission voted to enact new rules to lower the cost of phone and video calls, the timeline for bringing prisons and jails into compliance could extend into 2026.

For individuals incarcerated in DOC institutions, their families often go into debt to help cover the cost of phone calls and electronic messages with loved ones and assist with the cost of basic needs items in commissary outside of the tiny bar of soap, tiny tube of toothpaste, and single stamped envelope received every two weeks. Notably, depending on job classification, those incarcerated in DOC institutions earn between $0.05 per hour to $0.12 per hour; and for a small proportion with extra security clearance, $0.42 per hour.

---

[9] "Locked Out 2022: Estimates of People Denied Voting Rights Due to a Felony Conviction," The Sentencing Project (October 2022), https://www.sentencingproject.org/app/uploads/2024/03/Locked-Out-2022-Estimates-of-People-Denied-Voting.pdf.

[10] "Division of Community Corrections, 2024: A Year in Review," Wisconsin Department of Corrections, https://doc.wi.gov/DataResearch/DataAndReports/DCCYearInReview.pdf.

[11] "You've Served Your Time. Now Here's Your Bill," HuffPost (Sept. 2018), https://www.huffpost.com/entry/opinion-prison-strike-labor-criminal-justice_n_5b9bf1a1e4b013b0977a7d74.

[12] Izabela Zaluska, *Pay-to-stay, other fees, can put jail inmates hundreds or thousands in debt*, Wisconsin Watch (Sept. 15, 2019), https://wisconsinwatch.org/2019/09/pay-to-stay/.

[13] Wanda Bertram, *New data: Wisconsin jails and telecom giants profiting from high phone rates that keep families apart*, Prison Policy Initiative (Sept. 10, 2021), https://www.prisonpolicy.org/blog/2021/09/10/wisconsin-phones/.

AB-87 is presumably modeled after Florida's SB 7066—a bill signed into law to subvert Amendment 4, a referendum passed by voters to overturn a Jim Crow Era law and re-enfranchise formerly incarcerated people. Similar to Florida's disenfranchisement scheme, AB-87 would be extraordinarily difficult to implement because Wisconsin does not have a centralized database identifying the precise amount of an individual's financial obligation that must be satisfied for re-enfranchisement. This would make it nearly impossible for some individuals to determine what they owe, if anything, and whether they would be eligible to vote.

The ACLU of Wisconsin strongly urges committee members to vote against these proposals that would exacerbate mass incarceration and the damage it inflicts on our communities, our families, our economy, and our democracy.

Testimony in Support of AB85

March 4, 2025
Mr Chairman and Committee Members of the Judicial Committee:

I am writing on behalf of Enough is Enough ~ A Legacy for Erin, a not for profit advocacy group combating criminal reckless driving across the state of Wisconsin, currently focused in Milwaukee County. We began our efforts in November of 2023 when Erin Mogensen, a 32 year old mother-to-be, was killed by a repeat felon, fleeing police at speeds topping 117 mph.

I am in support of AB85 requiring revocation if new crimes are committed while a defendant is out on bail or during probation.

It's truly sad that this bill and law are needed, but Enough is Enough has seen firsthand that rule violations, including new crimes, rarely result in consequences. There Is a culture of leniency in the criminal justice system that must change if we want to restore safety to our streets and neighborhoods.

Enough is Enough's Court Watch program has observed well over 200 hearings in Milwaukee County regarding fleeing an officer and reckless driving. In January, we released a report of findings on our "First 100" (116 cases to be exact) sentencing cases including:

- Sentencing patterns differ *significantly* between judges, even for similar cases.
- Judges vary in how closely they adhere to prosecuting attorneys' recommendations:
    - **More lenient sentences were issued in 69% of cases.**
    - Tougher sentences were issued in only 8% of cases.
    - Sentences matching the State Prosecutor's recommendations occurred in 23% of cases.
- Approximately **50% of the cases recorded involve defendants with previous convictions.**
- **35% of cases resulted in probation** or House of Corrections rather than incarceration in a prison.
    - Of those issued probation, **61% involved defendants with prior convictions.**
- Judges frequently applied concurrent sentences, reducing the total length of incarceration.
- Fines (not restitution) were rarely, if ever, imposed as part of sentencing, even though they are structured as part of the statutes.
- Many cases involve victim injury and property damage

A summary and full report may be found on our website **ene4erin.org**

A defendant, when granted bail, agrees to commit "no new crimes". However, by the time a sentencing hearing is held, oftentimes they have accumulated more cases; to which, a "package deal" is presented. Somewhere the process is breaking down. If the defendant can't stay out of trouble, he should not be on the street, threatening the public safety. If the DOC/probation department is unable to keep track of or ensure the public safety, unfortunate or not, they should not be challenged to take on more and more people to keep track of.

Our legacy Erin's case is a perfect example of why this law is necessary. Frank Mosley was convicted three different times for felony retail theft, and given probation concurrently for all three crimes. While serving his probation, he violated the rules of his probation, and he did not achieve or abide by the conditions of his probation. Had this law been in place, he would have been revoked prior to the day he chose to drive a stolen vehicle without registration plates, flee police at speeds topping 117 mph and kill Erin and her unborn child. It was Erin and her husband, Alex's fourth anniversary. Alex and their families will never be the same. Had tougher consequences been applied to Frank Mosley, Erin would be here, and he may or may not be spending the next 40 years of his life in prison for his careless act. Leniency and lack of consequences can also have a negative effect on criminals as they are not deterred by them.

Please choose to support this bill, to hold the system and the criminal accountable for violating any rules or conditions of probation or bail. The criminal justice system as a whole has not been protecting the public from recidivist criminals. Until they do, it behooves you to demand, through legislation, the application of the law they refuse to enforce.

Thank you
Jeanne Lupo
President
On behalf of Enough is Enough ~ A Legacy for Erin
ene4erin.org/ene4erin@gmail.com