

Marquette County District Attorney

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Senator Lena C Taylor
PO Box 7882
Madison, WI 53707

RE: Justice Reinvestment Committee

Dear Senator Taylor:

In regard to the Committee Hearing set for May 6th, I will unfortunately not be able to attend. It's distressing to me but unfortunately I had previously had that day scheduled with a relatively full court calendar. Since the calendar includes six preliminary hearings, a post-conviction motion hearing that is evidentiary in nature, and one sentencing that is likely going to result in a prison sentence, I do not feel that it would be at all advisable to even try to get a special prosecutor to handle that days calendar for me. It distresses me to have gone through all of the hearings that we've done up to this date, and then not be able to be at the hearing where discussion on the proposal is presented. I am especially distressed because I think I have some input that I believe would be important and which is input that is based on my position not only as District Attorney but also as a representative of the Wisconsin District Attorney's Association.

In any event I will try to put into this letter some of my comments and concerns as it relates to the proposals as well as some of my positive feedback on the proposals as well.

My first comments are going to be general in nature and relate to the proposals in general. I generally am in favor of all four proposals so long as two things take place. First, there has to be a valid and validatable assessment tool that the Department of Corrections will be able to use to assess the individuals coming into the system. If there are not good assessments I'm not sure that any of the other treatment alternatives are going to be realistic options to insure public safety. The second essential component is of course the treatment component. Obviously we need to make sure that the treatment programs that are used are regularly evaluated and that these are evidence based treatment programs. Without the solid evidence based and regularly evaluated treatment, then all we're doing is letting people out of prison earlier or with less time without insuring public safety.

With those two assumptions, that we will have the proper assessment tools and we will have evidence based treatment programs that are maintained, I can be supportive of all the programs that are being proposed.

As it relates to the limit on the extended supervision time, I do have one concern that I expressed to Mr. Pelka and Mr. Clemment and also expressed at the committee meeting that I think does need to be addressed. Specifically, we need to have some way of maintaining some degree of control over individuals who are on extended supervision, especially when we limit the maximum term of extended supervision as is being proposed, to make sure that they pay restitution. Simply saying that it'll be converted to a civil judgment is essentially saying to the victims, "we don't care if you recover your restitution or not" because they will not recover restitution if this matter is just converted to a civil judgment. We need to have enough control that the offender has a penalty or at least some impact on their lives if they fail to pay the restitution in a timely fashion.

I also did receive a copy of what appears to be a draft of the change in the statutory language as it relates to the maximum term of extended supervision. I hate to cast aspersions on the people from the legislative reference bureau, assuming that they provided this draft, but I feel that the draft provided is confusing and possibly does not do what is intended to be done. The first sentence of the draft clearly indicates that the term of extended supervision may not be less than 25% and not more than 75% of the length of the term of confinement in prison. The second sentence then seems to create an exception for that maximum of 75% that being B and C felonies and sex offenses.

I would think it would be better termed by putting the exception into the first sentence and really only having one sentence. Another alternative would be to have 973.01(2)(d)(1), which would be minimum maximum term of extended supervision and then say except as provided in sub 2 and then putting a sub 2 being the exception that is B, C felonies and sex offenses as the exception in sub 2.

I hope my explanation of the concern I have is not more confusing than the language itself. I would appreciate it if you could share my letter with the remainder of the members of the committee so that they are aware of what my concerns and comments are as it relates to these proposals.

Finally, I would advise that I did provide the entire prosecution world with a copy of the draft prepared by the council on state government. I have not heard any comments back that would be significantly different than the comments that I have provided in this letter. The comments I have received are generally supportive of the proposals, but also fully agree that we do need to make sure that the treatment part and the evaluation part of the proposals are fully implemented. I would certainly think that those should be part of any statutory language that's in here so that there is no doubt about what the intent of this is in that that treatment programs are mandated so that we aren't coming back here in another year and finding that corrections has eliminated treatment and or assessment portions in order to save money and then all we're doing is getting people out of prisons sooner and not protecting the public.

If you have any questions that you wish to discuss with me before the meeting and/or if anybody from the council of state government has the desire to talk to me, I'm more than happy to do so. I have very full mornings both May 4th and 5th, but should have some breaks in the afternoon on each day when I could be able to discuss the situation with whoever may feel it necessary to talk to me. I appreciate your involvement in this committee and as I indicated am willing to continue to be involved in this process even after the committee has made it's final recommendations. If you have any other questions, please do not hesitate to contact me.

Sincerely,

Richard J. Dufour
District Attorney

RJD/kk

CC: All Prosecutors