



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 4

TO: SENATOR LENA TAYLOR

FROM: Anne Sappenfield, Senior Staff Attorney and Katie Bender-Olson, Staff Attorney

RE: Potential Committee Recommendations

DATE: December 16, 2010

This Memo provides a comprehensive list of potential recommendations generated by members of the Special Committee on Criminal Justice Funding and Strategies and by speakers who presented to the committee. The recommendations are grouped by category. The categories include: recommendations regarding components of the criminal justice system, recommendations regarding funding of the criminal justice system, recommendations regarding effective justice strategies, and endorsements of existing recommendations.

The Memo provides a starting point for discussion regarding the recommendations which should be included in a final report issued by the committee.

Recommendations Regarding Legal Representation of the State and Defendants

- Create pay progression for prosecutors to address high turnover rates for Assistant District Attorneys.
- Conduct a statewide quality analysis of prosecutors, public defenders, and private bar defense attorneys.
- Increase the private bar rate for defense counsel from \$40 per hour to \$80 per hour in order to attract experienced defense counsel.
- Increase the retention of experienced state prosecutors in order to provide more efficient and effective justice, and to increase the use of diversions or other alternatives to prosecution.

- Increase the retention of experienced private bar defense counsel who accept public defender appointments with the goal of reducing the number of post-conviction motions filed by defendants and allowing better advocacy for alternatives to prosecution or incarceration.
- Conduct a new prosecutor time study that employs updated time requirements for prosecuting cases, given changes in technology, victims' rights, referral practices, and mandatory recording of interrogations.
- Develop a method for sharing evidence between prosecution and defense attorneys to reduce costs such as making copies or transcribing interrogations.
- Develop a standard method for the recording of interrogations so that all law enforcement units and district attorney offices use the same system or recording equipment.

Recommendations Regarding Funding of the Criminal Justice System

- Adequately fund the criminal justice system.
- Adequately fund victim services because victim advocates improve the effectiveness and efficiency of the entire criminal justice system by encouraging victims to provide testimony and interceding in abusive situations before violence develops.
- Maintain current levels of funding for ongoing treatment and diversion programs, such as county drug courts and Milwaukee County's Assess, Inform, and Measure (AIM) program.
- Fund the criminal justice system from general purpose revenue to provide a stable funding source.
- Redirect all fee and surcharge revenue currently deposited into the general fund into the court system.
- Reduce current reliance on fee and surcharge revenue for funding the criminal justice system because it is an unstable source of funding.
- Discourage the creation of new fees and surcharges and the increase of existing fees and surcharges. Increased fees and surcharges burden court users and appear to create diminishing returns because defendants have a limited ability to pay.
- Restrict revenues from the Penalty Assessment Surcharge to law enforcement training uses. The Penalty Assessment Surcharge was originally created for the purpose of law enforcement training, but now supports a variety of program activities, including justice-relation automation systems, victim-witness services, correctional officer and public defender training, alcohol and other drug abuse programs, and anti-drug enforcement programs.
- Employ a comprehensive workload model to evaluate funding needed for the criminal justice system as a whole in recognition of the potential for increased workload or increased funding in one area of the criminal justice system to impact other parts of the system.

- Discourage piecemeal funding and position increases for individual components of the criminal justice system. An increase in one area of the system may create needs in other areas. For example, creating additional prosecutor positions may result in a need for additional public defender and court positions.
- Require legislation that creates new crimes or penalties to provide additional funding for the criminal justice system.
- Calculate savings achieved through innovative treatment and diversion programs and return an equal amount to the county that realized the savings for reinvestment in the local criminal justice system.

Recommendations Regarding Effective Justice Strategies

- Create funding incentives that allow counties to recoup a percentage of the savings they achieve through innovative programs. Counties who save state funds by creating efficiencies could be required to reinvest a portion of the amount saved back into the local criminal justice system.
- Create funding incentives that allow counties to recoup the full amount of savings they achieve through innovative programs. Counties who save state funds by creating efficiencies could be required to reinvest an amount equal to the savings realized back into the local criminal justice system.
- Develop methods for measuring the savings achieved by treatment and diversion programs.
- Implement a “dashboard” system. The dashboard would collect real-time data from all parts of the criminal justice system, evaluate the data, generate reports, and monitor the impact of new policies on the criminal justice system.
- Require evaluation of criminal justice programs after implementation. Programs created to realize savings through diversion or reduced recidivism should be evaluated to determine whether each particular program is achieving the intended effect.
- Create disincentives for judges to impose lengthy sentences.
- Create a state-level Criminal Justice Coordinating Council as a forum for criminal justice ideas. The council should disseminate information about effective county programs and generate new criminal justice system policy. The council should also provide technical and funding assistance to counties for the development of innovative programs.
- Create a state-level Criminal Justice Coordinating Council independent from the Department of Justice to avoid an emphasis on prosecution issues.
- Encourage development of county-level or multi-county Criminal Justice Coordinating Councils to foster innovations addressing a particular location’s specific criminal justice environment.

- Direct that data generated by a “dashboard” system be received and processed by a state Criminal Justice Coordinating Council. The council should evaluate the data and generate reports and recommendations based on the information received.
- Decriminalize certain low-level crimes and treat the offenses as ordinance violations.
- Eliminate Truth-in-Sentencing.
- Reduce the maximum length of sentences under Truth-in-Sentencing.
- Increase police discretion and consider revising or repealing mandatory arrest laws.
- Encourage the development and use of a prosecution matrix or efficiency scoring sheet.

Endorsements of Existing Recommendations

- Endorse the Supreme Court’s Planning and Policy Advisory Committee (PPAC) Subcommittee on Court Financing recommendation that court system funding remain a state-county partnership with a long-term goal of increasing state responsibility for funding court services.
- Endorse the Council of State Governments Justice Center recommendations. The Justice Center presented the following recommendations at the December 2, 2010 meeting of the full committee:
 - Focus programs and policies on offenders most likely to reoffend.
 - Invest in programs that work and evaluate programs after implementation to determine whether they are working effectively.
 - Strengthen supervision of offenders on correctional supervision and employ swift and certain sanctions for violations.
 - Use place-based strategies to focus on concentrated-offender neighborhoods or areas.
- Endorse the State Public Defender’s budget request proposal for the decriminalization and reclassification of particular offenses. The budget request proposes the following:
 - Decriminalize the Department of Natural Resources fish and game offenses.
 - Decriminalize carrying a concealed weapon.
 - Decriminalize first offense simple possession of drug paraphernalia and small quantities of marijuana.
 - Decriminalize consensual sexual contact with a minor when the actor is younger than the alleged victim or when the age difference is less than three years.

- Reclassify forgery valued at less than \$2,500 as a misdemeanor.
- Reclassify second offense possession of marijuana as a misdemeanor.
- Alter the charging process for retail theft - first offense, and issuance of worthless checks – first offense, to provide diversion and restitution alternatives.
- Provide diversion and restitution alternatives to delinquency charges for juveniles suspected of offenses that would be misdemeanors in adult court.
- Endorse the court system's budget request proposal to direct 82% of revenues collected from the Court Support Services Surcharge to the counties as part of a new Circuit Court Financial Support program.

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