



WISCONSIN LEGISLATIVE COUNCIL

PROBLEM-SOLVING COURTS, ALTERNATIVES, AND DIVERSIONS

Large Conference Room
Legislative Council

September 17, 2014
10:00 a.m. – 3:40 p.m.

[The following is a summary of the September 17, 2014 meeting of the Study Committee on Problem-Solving Courts, Alternatives, and Diversions. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.wisconsin.gov/lc>.]

Call to Order and Roll Call

Chair Bies called the meeting to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Garey Bies, Chair; Rep. Evan Goyke, Vice Chair; Sen. Robert Wirth; Reps. Dale Kooyenga, Warren Petryk and Chris Taylor; and Public Members Carol Carlson, Troy Cross, Tony Gibart, Elliott Levine, Joann Stephens, Kelli Thompson, and Mary Triggiano.

COMMITTEE MEMBERS EXCUSED: Public Members Matthew Joski, Jane Klekamp, and Michael Waupoose.

COUNCIL STAFF PRESENT: Laura Rose, Deputy Director; and Melissa Schmidt, Senior Staff Attorney.

Approval of the Minutes of the Special Committee's August 20, 2014 Meeting

Public Member Kelli Thompson moved, seconded by Representative Goyke, to approve the minutes of the August 20, 2014 meeting. The motion passed on a unanimous voice vote.

Description of Materials Distributed

Laura Rose, Deputy Director, Legislative Council staff, described an item which was deferred from the August 20, 2014 meeting of the committee: incident-based reporting. Public Member Matthew Joski, who participated via telephone, described the National Incident-Based Reporting (IBR) system, which provides for collecting data about crime incidents that come to the attention of law enforcement, including types of offenses, victim and offender characteristics, types and value of

property stolen and recovered, and characteristics of arrestees. The IBR is an expansion and enhancement of the Uniform Crime Reporting (UCR) program. Mr. Joski stated that in Wisconsin, it is estimated that approximately 40% of law enforcement agencies currently use IBR, while the remaining agencies still use the UCR.

Mr. Joski suggested that statewide implementation of IBR will assist treatment courts in more precisely classifying offenders to determine which offenders are most effectively placed in treatment courts. After committee discussion, the committee agreed to recommend statewide implementation of IBR, and directed staff to draft a letter to the Department of Justice with this recommendation.

WLC: 0001/P1, relating to occupational license minimum waiting periods for participants in a treatment court

Melissa Schmidt, Senior Staff Attorney, Legislative Council Staff, described the draft. The draft provides an exception to the occupational license minimum waiting period requirements for a person who is a participant in a treatment court project. The committee discussed how “treatment court” should be defined for the purposes of the draft, and to whom the reduced occupational license waiting period should apply. The committee requested a redraft that did not include the definitions of terms, would allow the waiting period waiver to be based on the offenders involvement in county-based treatment alternatives or diversion programs, and provide judicial discretion with regard to waiver of the waiting periods.

WLC: 0007/P1, relating to treatment court access to ignition interlock device reports

Ms. Schmidt described the draft. Ms. Thompson said that ignition interlock device (IID) reports are sporadically provided to treatment courts, and that provision of the reports varies by county, judge, and other factors. Reports are provided based on the IID provider’s discretion. Judge Levine commented that it would be helpful if the IID providers settled on a consistent approach regarding provision of the reports.

After further discussion, staff was directed to contact the Department of Transportation and IID service providers to obtain further information.

LRB-2614/P4, relating to creating the criminal justice coordinating council, providing grants to certain county or tribal criminal justice projects, and making appropriations; and WLC: 0002/P1, an amendment to LRB-2614/P4, relating to violent offender participation in TAD

Ms. Rose described the components of the draft. Extensive discussion took place on the change to the treatment of violent offenders within the TAD program, with some members favoring retaining the current prohibition on violent offender participation, and other members favoring a change, provided that discretion on including violent offenders was provided the local TAD projects. The committee discussed how any change still leaves a county with the ability to decide for itself whether or not to allow a violent offender into the program.

Mr. Cross moved, seconded by Representative Goyke, to approve WLC: 0002/P1, relating to the violent offender prohibition in TAD. The motion carried on a vote of Ayes, 6 (Representatives Bies and Goyke; and Public Members Cross, Levine, Stephens, and Triggiano); Noes, 3 (Representative Taylor; Senator Wirch; and Public Member Gibart); and

Absent, 7 (Representatives Kooyenga and Petryk; Public Members Carlson, Joski, Klekamp, Thompson, and Waupoose).

There was unanimous consent to further amend the draft to:

- Add the Secretary of Veterans Affairs to the Criminal Justice Coordinating Council's (CJCC).
- Delete the term "substance abuse" from SECTION 46 of the draft.
- Require the CJCC to take into account the racial and demographic disparities in treatment court participation, examine and make recommendations to the Governor on this issue.

Representative Goyke moved, seconded by Senator Wirch, to approve a redraft of LRB-2614/P4, as amended by WLC: 0002/P1, and including the above-referenced amendments. The motion carried on a vote of Ayes, 9 (Representatives Bies, Goyke, and Taylor; Senator Wirch; and Public Members Cross, Levine, Stephens, Thompson, and Triggiano); Noes, 1 (Public Member Gibart); and Absent, 6 (Representatives Kooyenga and Petryk; and Public Members Carlson, Joski, Klekamp, and Waupoose).

After the vote on the draft, the committee agreed unanimously to send a letter to the Joint Legislative Audit Committee to conduct a program audit of Treatment Alternatives and Diversions (TAD).

WLC: 0009/P1, an amendment to LRB-2614/P4, relating to expansion of TAD to encompass family dissolution

The committee discussed the draft amendment and determined that, instead of expanding TAD to include family drug treatment court participants where the parents had their children removed from the home, that a new draft should be prepared for the next meeting that creates a program in ch. 48, Stats., similar to TAD.

WLC: 0003/P1, relating to authorizing a position for a statewide treatment court coordinator

Ms. Rose described the draft. The committee gave unanimous consent to approve the draft.

WLC: 0004/P1, relating to authorizing treatment court coordinators for each judicial administrative district and increasing an appropriation

Ms. Rose described the draft.

After discussion, Mr. Levine moved, second by Ms. Triggiano, to table the draft. The motion carried by unanimous consent.

WLC: 0005/P1, relating to designating funds for evaluation of treatment court programs

The committee discussed the draft, as well as the Department of Justice's (DOJ) budget proposal for the upcoming 2015-16 Biennium, which includes funding for evaluations. The committee decided, by unanimous consent, to approve amending the draft to permit, rather than require, DOJ to contract with an independent entity to perform the evaluations of the TAD program.

WLC: 0006/P1, relating to permitting defendants to be assigned to treatment courts outside of their county of residence as a condition of probation

Ms. Rose described the draft, which permits a court to assign a defendant to a treatment court project offered in a county that is not the defendant's county of residence, provided that certain conditions are met, including treatment court project consent; reimbursement by the nonresident defendant's county of residence for expenses incurred by the nonresident defendant; capacity of the project to serve the nonresident defendants; and the ability of the defendant to fully participate in the project's requirements. The committee discussed the draft. Mr. Cross commented that if a crime is committed by a noncounty resident in a county that has a treatment court, the nonresident offender should be treated the same as an offender who is a county resident, and should have the opportunity to enter into a treatment court project if it is appropriate. Ms. Thompson agreed, but suggested amending the draft to delete lines 7 to 11 on page 2 of the draft.

Mr. Cross moved, seconded by Ms. Thompson, to approve a redraft of WLC: 0006/P1, with the above-referenced amendment. The motion carried on a vote of Ayes, 7 (Representative Goyke; Public Members Cross, Gibart, Levine, Stephens, Thompson, and Triggiano); Noes, 2 (Representatives Bies and Taylor); and Absent, 7 (Representatives Kooyenga and Petryk; Senator Wirch; and Public Members Carlson, Joski, Klekamp, and Waupoose.)

WLC: 0008/P1, relating to requiring applicants for treatment alternatives and diversion grants, and the departments of justice, corrections, and health services to conduct resource analyses

Ms. Rose described the draft, and the committee unanimously consented to tabling the draft.

WLC: 0010/P1, relating to judicial authority to order home detention as a condition of probation

Ms. Schmidt described the draft, which provides express authority for a court to order that a person be placed on home detention as a condition of probation during such period of the term of probation as the court prescribes, but not to exceed one year. The draft also provides express authority for the court to order that a person who is convicted of an offense punishable by a mandatory or presumptive minimum period of one year or less of imprisonment, be either confined or placed in detention at the defendant's place of residence, or other place designated by the court, as a condition of probation during such period of the term of probation as the court prescribes, but not to exceed one year. Under the draft, the condition of probation of home detention may be imposed only if agreed to by the defendant. If the probationer fails to comply with the terms of the condition of probation of detention, the draft authorizes the court to order that the probationer be brought before the court and to order that the remainder of the period of detention be served in the county jail.

Mr. Levine stated that the interpretation of current law creates a disincentive to order probation, especially for a third offense of operating while intoxicated, since the court cannot order electronic monitoring.

Mr. Gibart moved, seconded by Representative Goyke, to approve WLC: 0010/P1, with the change on page 3, line 16, to add “or portion of” after the word “remainder.” The motion carried on a vote of Ayes, 9 (Representatives Bies, Goyke, and Taylor; Public Members Cross, Gibart, Levine, Stephens, Thompson, and Triggiano); Noes, 0; and Absent, 7 (Representatives Kooyenga and Petryk; Senator Wirch; and Public Members Carlson, Joski, Klekamp, and Waupoose).

Memo No. 3, Examples of a State-Administered Certification Process for Treatment Courts and a State Level Clearinghouse for Evidence-Based Treatment Court Practices (September 10, 2014)

Ms. Schmidt described Memo No. 3. Mr. Levine suggested that because the Wisconsin Association of Treatment Court Professionals (WATCP) issued their model treatment courts standards just a few months ago, that perhaps the committee should hold off on recommending a certification process until courts have had the opportunity to work with the recommended standards. He noted that WATCP will be conducting a statewide training on the new standards.

With regard to the suggestion to establish a statewide clearinghouse of treatment court information, Representative Goyke requested additional guidance as to what a model clearinghouse would look like.

Draft Letter, to Chief Justice Shirley Abrahamson, Wisconsin Supreme Court (September 2014)

Ms. Rose described the draft letter to Chief Justice Shirley Abrahamson recommending that the Director of State Courts office work with DOJ on an integrated data system for treatment courts, and to retain the current special projects coordinator position with the Director of State Courts.

Representative Goyke moved, seconded by Ms. Thompson, to approve sending the letter to Chief Justice Abrahamson. The motion carried on a unanimous voice vote.

Draft Letter, to Attorney J.B. Van Hollen, Department of Justice (September 2014)

Ms. Rose described the draft letter to Attorney General J.B. Van Hollen, recommending that DOJ work with the Director of State Courts office on an integrated data system for treatment courts, and to continue the TAD advisory committee.

Mr. Cross moved, seconded by Ms. Stephens, to approve sending the letter to Attorney General Van Hollen. The motion carried on a unanimous voice vote.

Other Business

There was no other business before the committee.

Plans for Future Meetings

Chair Bies said that staff would send out a poll to members regarding their availability for meetings on either October 6th or October 29th.

Adjournment

The meeting was adjourned at 3:40 p.m.

LR:ty