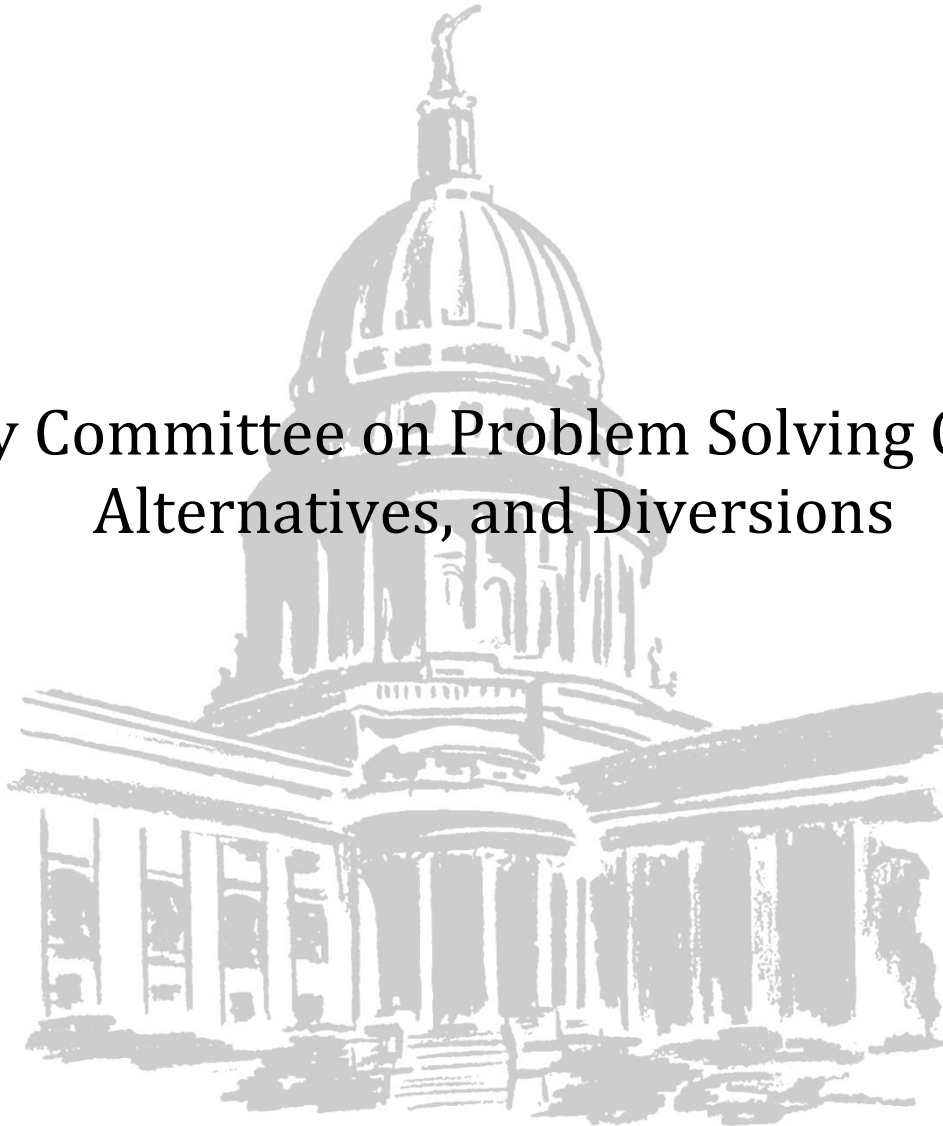


Report to the Joint Legislative Council

Study Committee on Problem Solving Courts, Alternatives, and Diversions



February 4, 2015

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STUDY COMMITTEE ON PROBLEM-SOLVING COURTS, ALTERNATIVES, AND DIVERSIONS

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CONTENTS

PART I KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS	3
LRB-0932/1, Relating to Creating the Criminal Justice Coordinating Council, Providing Grants to Certain County or Tribal Criminal Justice Projects, Home Detention for Probation, and Making Appropriations.....	3
LRB-0922/1, Relating to Creating Family Treatment Court and Juvenile Treatment Court Grant Programs in the Department of Children and Families and Making an Appropriation.....	4
LRB-0918/1, Relating to Access to Ignition Interlock Device Reports, Occupational License Eligibility Periods for Participants in Certain Treatment Projects, and Granting Rule-Making Authority.....	4
PART II COMMITTEE ACTIVITY	7
Assignment.....	7
Summary of Meetings.....	7
PART III RECOMMENDATIONS INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL	13
LRB-0932/1, Relating to Creating the Criminal Justice Coordinating Council, Providing Grants to Certain County or Tribal Criminal Justice Projects, Home Detention for Probation, and Making Appropriations.....	13
Treatment Alternatives and Diversions Program.....	13
Home Detention for Probation.....	15
LRB-0922/1, Relating to Creating Family Treatment Court and Juvenile Treatment Court Grant Programs in the Department of Children and Families and Making an Appropriation.....	16
Background.....	16
Description.....	16

LRB-0918/1, Relating to Access to Ignition Interlock Device Reports, Occupational License Eligibility Periods for Participants in Certain Treatment Projects, and Granting Rule-Making Authority.....	17
Ignition Interlock Device Reports	17
Occupational License Waiting Periods	19
APPENDIX 1	21
Committee and Joint Legislative Council Votes.....	21
APPENDIX 2	23
Joint Legislative Council	23
APPENDIX 3	25
Committee List.....	25
APPENDIX 4	27
Other Recommendations	27
APPENDIX 5	33
Committee Materials List.....	33

PART I

KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS

LRB-0932/1, RELATING TO CREATING THE CRIMINAL JUSTICE COORDINATING COUNCIL, PROVIDING GRANTS TO CERTAIN COUNTY OR TRIBAL CRIMINAL JUSTICE PROJECTS, HOME DETENTION FOR PROBATION, AND MAKING APPROPRIATIONS

LRB-0932/1 does all of the following:

- Creates a Criminal Justice Coordinating Council in the Department of Justice (DOJ).
- Makes statutory changes to clarify that tribes, in addition to counties, may qualify for TAD grants.
- Broadens the scope of the Treatment Alternatives and Diversion (TAD) program beyond alcohol and other drug treatment to encompass mental health treatment and other forms of treatment, provided the program is evidence-based and designed to promote effective criminal justice policies to reduce prosecution and incarceration costs, reduce recidivism, and enhance justice and public safety.
- Requires projects to specify whether or not certain violent offenders will be allowed to participate and if so, requires victim advocates to be involved in project oversight.
- Requires DOJ to prepare, or contract for, a program evaluation every five years, which is funded from the TAD appropriation.
- Increases an appropriation to the Supreme Court to fund a statewide treatment court coordinator in the Office of the Director of State Courts.
- Provides express authority for a court to order that a probationer, including a probationer who is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment, to be confined in detention at the probation's place of residence as a condition of probation.

LRB-0922/1, RELATING TO CREATING FAMILY TREATMENT COURT AND JUVENILE TREATMENT COURT GRANT PROGRAMS IN THE DEPARTMENT OF CHILDREN AND FAMILIES AND MAKING AN APPROPRIATION

LRB-0922/1 does all of the following:

- Creates a family treatment court grant program to be administered by the Department of Children and Families (DCF) and operating within the children's court. DCF makes grants available to counties to create programs that screen, assess, and provide new dispositional alternatives for parents whose children have come under the jurisdiction of the children's court due to parental problems related to mental illness or substance abuse.
- Creates a similar program to be administered by DCF and operating within the juvenile court. DCF similarly makes grants available to counties to enable them to establish and operate programs to develop procedures that screen, assess, and provide new dispositional alternatives for juveniles who have problems related to mental illness or substance abuse.

LRB-0918/1, RELATING TO ACCESS TO IGNITION INTERLOCK DEVICE REPORTS, OCCUPATIONAL LICENSE ELIGIBILITY PERIODS FOR PARTICIPANTS IN CERTAIN TREATMENT PROJECTS, AND GRANTING RULE-MAKING AUTHORITY

LRB-0918/1 does all of the following:

- Requires the Department of Transportation (DOT) to promulgate rules to require ignition interlock device providers operating in this state to provide courts with the same installation, service, and other requested reports, currently provided to DOT and law enforcement agencies.
- Requires DOT to promulgate rules requiring ignition interlock device providers operating in this state to notify courts of any ignition interlock device tampering, circumvention, failure, bypass, or violation resets, including all relevant data recorded in the device's memory, which is currently to be provided to DOT and law enforcement agencies.
- Requires DOT to present a scope of the rules it is required to promulgate regarding the ignition interlock device program to the Governor within 90 days after the effective date of the bill draft. It also requires DOT to submit a proposed form of these rules to the Legislative Council Rules Clearinghouse within 15 months after the DOT Secretary approves the scope of the proposed rules.
- Authorizes a court to order that a person ordered or sentenced to comply with a treatment court is not subject to the 45-day minimum waiting period for eligibility to

obtain an occupational license, which is otherwise applicable to a person with two or more prior operating while intoxicated (OWI) convictions or suspensions. The bill draft provides that the person is still subject to the 15-day minimum waiting period for eligibility to obtain an occupational license, which is currently applicable to any person whose driver's license was suspended or revoked.

PART II

COMMITTEE ACTIVITY

ASSIGNMENT

The Study Committee directed to review the 50+ courts currently in operation in Wisconsin that utilize nontraditional adjudication methods, the effect they have on recidivism, and the net fiscal impact of these courts. The committee shall examine courts, such as veterans courts, drug and alcohol courts, mental health courts, and drunk driving courts, in Wisconsin and nationally and consider: (a) effectiveness of existing problem-solving courts in Wisconsin in reducing recidivism, the costs to administer these courts, and the savings realized; (b) best practices of existing problem-solving courts, both in Wisconsin and elsewhere, and potential implementation of these practices at the state level; (c) efforts to establish problem-solving courts that serve multiple counties, impediments to these efforts, and potential changes to improve regionalization of such courts; and (d) appropriate role and structure of state-level training and coordination.

Membership of the Study Committee was appointed by a March 19, 2014 mail ballot. The final committee membership consisted of five Representatives; one Senator; and 10 Public Members.

SUMMARY OF MEETINGS

The Study Committee held five meetings on the following dates:

June 25, 2014

July 22, 2014

August 20, 2014

September 17, 2014

October 29, 2014

At the June 25, 2014, the committee heard presentations from the following speakers:

Carson Fox, Chief Operating Officer and Chief Counsel, National Association of Drug Court Professionals presented information on the operation and prevalence of drug courts throughout the United States, and also discussed evaluation results on drug court effectiveness.

Judge Juan Colas, Dane County Circuit Court, Branch 10; James Pearson, Journey Mental Health Center; and Todd Campbell, Dane County Department of Human Services provided information on the history of the Dane County Drug Court and structure of the court in dealing with different risk levels of offenders. They also presented recidivism data on drug court participants.

Ray Luick, Justice Improvement Programs Specialist, DOJ presented information on Wisconsin's TAD program, including required components; funding history; admission and completion rates; and evaluation data.

Katie Behl, Treatment Court Coordinator, Judge David Reddy, and Carlo Nevicosi of the Walworth County Operating While Intoxicated Court Team provided information on population served by the OWI court; guiding principles; program components; and evaluation data.

Committee members asked staff to gather additional information on drug courts from the Director of State Courts and the Department of Corrections (DOC); comparison of Wisconsin and Minnesota programs and approaches; success stories from other states; and testimony from graduates of problem-solving court programs.

At the July 22, 2014 meeting, the committee heard presentations from the following speakers:

Michelle Cern, Statewide Problem-Solving Courts Coordinator, Director of State Courts Office presented information on problem-solving court initiatives in Wisconsin. She described the number of problem-solving courts in Wisconsin, outlined the growth in that number in recent years, and showed the geographic distribution of these courts in the state. Ms. Cern discussed the role and activities of the Wisconsin Supreme Court Planning and Policy Advisory Committee, as well as the role and activities of the Wisconsin Association of Treatment Court Professionals, the Statewide Criminal Justice Coordinating Committee, and other initiatives at the state level to develop problem-solving courts. She discussed funding of problem-solving courts and provided recommendations to the committee on ways to improve the courts moving forward.

Kit Van Stelle, Principal Investigator, University of Wisconsin Population Health Institute, University of Wisconsin School of Medicine and Public Health shared the results of the recently updated outcomes and cost-benefit analysis encompassing seven years of TAD activity across nine TAD counties. The study found that TAD programs had a positive impact on both of those measures, and that every \$1.00 invested in TAD yielded benefits of \$1.96 to the criminal justice system through averted incarceration costs. Ms. Van Stelle then made recommendations for modifications of the program going forward, which included continued collaboration among treatment court professionals; continuing the TAD Advisory Committee; development of an integrated, web-based data system; and obtaining legislative support for TAD administration and evaluation.

Tony Streveler, Executive Policy Advisor, DOC, presented Wisconsin corrections data, including the types of crimes for which people are incarcerated, demographics of the prison population, and trends in these figures.

Sheila Malec, Coordinator, Eau Claire County Mental Health Court, described the history of mental health in the adult criminal justice system, and of the Eau Claire County Mental Health Court. **Kenny Chaney and Robert Bergeron, program participants, Eau Claire County Mental Health Court** described the circumstances leading up to their involvement with the court system and the Eau Claire County Mental Health Court. They spoke about their experiences in the program, their successes, and their prospects for moving forward upon completion of the program.

Annie Levknecht, Outagamie County Mental Health Court and Veterans Court described the Outagamie County problem-solving courts, and discussed state-level resources related to it. She described the different phases of the program, and discussed program priorities.

Melissa Giebel, Calumet County Domestic Violence Court, Harbor House Domestic Abuse Program, presented the committee with information regarding the Calumet County Domestic Violence Court. She noted some of the challenges faced by their small county, including no funding for the court programs and the lack of treatment providers and transportation. **Danna Hibbard, DOC**, explained the referral process to the Domestic Violence Court, and indicated that the program would benefit from a coordinator.

Judge Michael Piontek, Maureen Martinez, Margaret Johnson, Jennifer Hofmeister, Jennifer Madore, and David Kagabitang, 2nd Judicial District of Wisconsin Veterans Treatment Court presented the committee with information regarding the 2nd Wisconsin Judicial District Veterans Court. The group presented information regarding eligibility and demographic data relating to those served by the court. They discussed the history of the drug court, as well as reasons for developing alternative justice procedures for veteran populations. They also described the training process for drug court personnel.

Richard Bryant, Case Manager, Dane County Drug Court, explained the process for review and intake, and indicated that the opportunity for expungement would provide valuable added incentive for participants.

John Springer, Dane County Drug Court Participant, and Aaron Ramsey, Dane County OWI Court Participant. Mr. Springer and Mr. Ramsey discussed their participation in the Dane County alternative court system and the outcomes they had achieved as a result of it.

At the August 20, 2014 meeting, the committee heard a presentation from **Judge Amanda WhiteEagle, Ho-Chunk Nation Trial Court Judge**. Judge WhiteEagle provided information about the Ho-Chunk Nation's Healing to Wellness Court (tribal wellness court), which is located in Jackson County and works in collaboration with the Jackson County Treatment Court (county treatment court). She explained that the county treatment court determines who may participate in the program and have his or her case monitored by the tribal wellness court. Judge WhiteEagle explained the tribal wellness court's four phases, each having a variety of conditions, incentives, and punishments. She also provided information about the tribal wellness court's rules and sanctions, which includes various activities by which a participant may interact with a tribal community.

Following Judge WhiteEagle's presentation, **Laura Rose, Deputy Director, Legislative Council** provided an overview of Memo No. 1, *Options for Committee Discussion*. The committee discussed options listed in Memo No. 1. Based upon consensus of the committee, Chair Bies directed Legislative Council staff to prepare bill drafts or provide additional information for further consideration and discussion at future committee meetings on several of the options.

Melissa Schmidt, Senior Staff Attorney, Legislative Council, described Memo No. 2, *Mental Health Court Evaluations*. She noted that the Memo was prepared in response to requests for more information about evaluations of mental health courts.

At the September 17, 2014 meeting, the Committee first discussed a proposal for statewide implementation of IBR and agreed to send a letter to DOJ expressing support for this proposal. The committee also reviewed a staff memo, "*Examples of a State-Administered Certification Process for Treatment Courts and a State Level Clearinghouse for Evidence-Based Treatment Court Practices*." The committee then discussed the following bill drafts, and two draft letters that staff prepared at the committee's request:

- WLC: 0001/P1, relating to occupational license minimum waiting periods for participants in a treatment court.
- WLC: 0007/P1, relating to treatment court access to ignition interlock device reports.
- LRB-2614/P4, relating to creating the criminal justice coordinating council, providing grants to certain county or tribal criminal justice projects, and making appropriations.
- WLC: 0002/P1, an amendment to LRB-2614/P4, relating to violent offender participation in TAD.
- WLC: 0009/P1, an amendment to LRB-2614/P4, relating to expansion of TAD to encompass family dissolution.
- WLC: 0003/P1, relating to authorizing a position for a statewide treatment court coordinator in the director of state courts office, and increasing an appropriation.
- WLC: 0004/P1, relating to authorizing treatment court coordinators for each judicial administrative district and increasing an appropriation.
- WLC: 0005/P1, relating to designating funds for evaluation of treatment court programs.
- WLC: 0006/P1, relating to permitting defendants to be assigned to treatment courts outside of their county of residence as a condition of probation.
- 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.
- WLC: 0010/P1, relating to judicial authority to order home detention as a condition of probation.
- Draft Letter, to Chief Justice Shirley Abrahamson, Wisconsin Supreme Court (September 2014).
- Draft Letter, to Attorney J.B. Van Hollen, Department of Justice (September 2014).

The committee approved WLC: 0003/P1 and WLC: 0010/P1; requested redrafts of WLC: 0001/P1, WLC: 0005/P1, WLC: 0006/P1, and LRB-2614/P4; and tabled WLC: 0004/P1 and WLC: 0008/P1. The committee also approved the two draft letters.

At the October 29, 2014 meeting, the committee discussed and voted to recommend the following eight bill drafts, with modifications, and one draft letter with modifications, to the Joint Legislative Council for introduction:

- WLC: 0001/P2, relating to occupational license minimum waiting periods for participants in a treatment court.
- WLC: 0005/1, relating to designating funds for evaluation of treatment court programs.
- WLC: 0007/P2 relating to treatment court access to ignition interlock device reports.
- WLC: 0010/P2, relating to judicial authority to order home detention as a condition of probation.
- WLC: 0028/1, relating to creating the criminal justice coordinating council, providing grants to certain county or tribal criminal justice projects, and making appropriations.
- WLC: 0033/P2, an amendment to WLC: 0028/1.
- WLC: 0034/P2, an amendment to WLC: 0028/1.
- WLC: 0032/P1, relating to creating a family treatment court grant program in the department of children and families and making an appropriation.
- Draft Letter to Senator Robert Cowles and Representative Samantha Kerkman, Co-Chairs, Joint Legislative Audit Committee.

The chair then requested staff to include all of the bill drafts that were recommended by the committee in a mail ballot for a final vote to recommend introduction by the Joint Legislative Council. He indicated that the bill drafts would be packaged into a couple of bill drafts, with the approved amendments, for purposes of introduction into the Legislature.

PART III

RECOMMENDATIONS INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

LRB-0932/1, RELATING TO CREATING THE CRIMINAL JUSTICE COORDINATING COUNCIL, PROVIDING GRANTS TO CERTAIN COUNTY OR TRIBAL CRIMINAL JUSTICE PROJECTS, HOME DETENTION FOR PROBATION, AND MAKING APPROPRIATIONS

Treatment Alternatives and Diversions Program

Background

Problem-solving courts were started in the United States in the late 1980s, as one response to high levels of offender recidivism and crowded prisons and jails. A 2009 report by the Wisconsin DOC verified the impact of drug- and alcohol-related offenses on escalating prison populations. The report recommended that the state explore alternatives to incarceration to ease prison overcrowding.

The State of Wisconsin created the TAD program, a grant program for counties, in the 2005-2007 Biennial Budget Act. TAD grants allow counties to develop treatment and diversion alternatives to jail or prison sentences for non-violent offenders with drug and alcohol problems. A 2012 report commissioned by the state entitled, *Effective Justice Strategies in Wisconsin: A Report of Findings and Recommendations*, prepared by the National Center for State Courts, called for expansion of TAD funded programs that incorporate evidence-based elements. The TAD program was expanded in 2013 Wisconsin Act 197. Currently, more than 20 drug court programs are operating in Wisconsin, and 10 more are planned.

A five-year evaluation of TAD was released in July 2014. The report estimated that every \$1.00 invested in TAD yields benefits of \$1.96 to the criminal justice system through averted incarceration and reduced crime.

Governor Walker created the Wisconsin Criminal Justice Coordinating Council (State CJCC) by signing Executive Order #65 on April 9, 2012. The 20-member State CJCC is co-chaired by the Secretary of DOC and the Attorney General (AG); staffed by various state, county, and local stakeholders; and supported by DOJ. The State CJCC analyzes the state criminal justice system and makes recommendations for its improvement.

Specifically, the State CJCC must, among other assigned tasks, “[i]nvestigate and disseminate information about effective and innovative criminal justice related programs employed at the county level, including treatment alternatives, diversion initiatives, and specialty courts.”

In accordance with this direction, the State CJCC established a Problem-Solving Courts Subcommittee, to coordinate with the Director of State Courts Office and support local Criminal Justice Coordinating Councils (CJCCs).

Throughout the course of the committee's deliberations, it determined that while the TAD program has achieved many positive outcomes, some modifications to the program are warranted at this time. One of the major modifications sought by the committee is to expand TAD to offenders who need treatment for conditions in addition to substance abuse, such as mental illness. In addition, the committee studied evidence of treatment courts' effectiveness with certain violent offenders and determined that as long as appropriate safeguards are in place, TAD programs should have the option of including certain violent offenders in their programs.

Description

This draft makes several changes to the TAD grant program:

- Specifies that both counties and tribes may qualify for TAD grants. In addition, the draft allows a county or tribe to administer a program jointly with another county or tribe.
- Provides that in order to be eligible for a TAD grant, a project must operate within the continuum from arrest to discharge from supervision and provide an alternative to prosecution, incarceration, or both.
- Permits projects to include offenders who need other types of treatments in addition to alcohol and other drug treatment. All treatments must be evidence-based and designed to promote effective criminal justice policies to reduce prosecution and incarceration costs, reduce recidivism, and enhance justice and public safety.
- Requires each project to be designed to integrate and coordinate services from several providers, including a participant's behavioral health treatment providers, case managers, and compliance monitors.
- Requires each project to use evidence-based eligibility criteria to determine who may participate in the project and to tailor its services to the needs of each participant or target population.
- Allows, but does not require, an eligible project to require participants to pay an amount towards their treatment.
- Eliminates the requirement that projects contribute 25% matching funds.
- Requires DOJ to consult with the CJCC to establish eligibility criteria and to determine which county or tribe projects meet the eligibility requirements.
- Requires each county or tribe to establish a criminal justice oversight committee to develop and implement the project design and advise the county or tribe in administering and evaluating its project.

- Requires a project to specify whether or not certain violent offenders will be allowed to participate. If a project allows certain violent offenders to participate, there must be a victim advocate on the project's oversight committee, if such an advocate exists in the project's county. If the project includes domestic abuse offenders, the oversight committee must consult with a batterers' treatment provider.
- Requires each county or tribe that receives a grant to monthly submit data requested by DOJ in order to allow DOJ to evaluate the project. The draft requires DOJ to use this data to prepare an annual progress report that it submits to the TAD council and makes available to the public. The bill draft requires DOJ to prepare, for submission to CJCC and to each house of the Legislature, a comprehensive report every five years that includes a cost benefit analysis of the TAD grant program. The evaluation is funded from TAD appropriations, and DOJ may enter into a contract with an independent entity to conduct the evaluation.

The bill draft creates a CJCC in DOJ, consisting of nine members who are members by virtue of the office they hold and 11 members appointed by the Governor for three-year terms. Because the CJCC has assumed the duties of the current Council on Offender Re-Entry with DOC, the bill draft repeals references to the council. Under the bill draft, in addition to studying, and providing advice and making recommendations to the Governor on, a variety of matters relating to the criminal justice system, CJCC advises DOJ in its administration of the TAD program.

Finally, the bill draft increases an appropriation to the Supreme Court to fund a statewide treatment court coordinator in the Office of the Director of State Courts.

Home Detention for Probation

Background

Current law provides that if a person is convicted of an offense for which there is a mandatory or presumptive minimum period of one year or less of imprisonment, a court may place the person on probation if the court requires that the person be confined for at least that mandatory or presumptive minimum period as a condition of the probation. The person is eligible to earn good time credit calculated regarding the period of confinement. In *State v. Eastman*, 220 Wis. 2d 330, 339, (Ct. App. 1998), the Court of Appeals clarified that a court's authority did not include the ability to order home detention as a condition of probation if a person is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment.

Current law also authorizes a county sheriff, or a house of correction superintendent, to place any person confined in jail who has been arrested for, charged with, convicted of, or sentenced for a crime in the home detention program.

Committee members raised concerns that the inability for a treatment court to order home detention as an alternative to confinement in jail is a barrier to effectively treating a person convicted of a second or third OWI offense because the participant must be able to attend treatment and other required appointments.

Description

The draft provides express authority for a court to order that a probationer, including a probationer who is convicted of an offense that provides a mandatory or presumptive minimum period of one year or less of imprisonment, be confined in jail, placed in detention at the probationer's place of residence or other place designated by the court, or both, as a condition of probation during such period of the term of probation as the court prescribes, but not to exceed one year. The detention must be monitored by the use of an electronic device worn continuously on the probationer's person and be capable of providing positive identification of the wearer at the detention location at any time. A probationer in detention is eligible for good time credit.

LRB-0922/1, RELATING TO CREATING FAMILY TREATMENT COURT AND JUVENILE TREATMENT COURT GRANT PROGRAMS IN THE DEPARTMENT OF CHILDREN AND FAMILIES AND MAKING AN APPROPRIATION

Background

A family drug treatment court currently operates in Milwaukee County. Involvement in the court is triggered by a child abuse and neglect report that is investigated and substantiated by the Bureau of Milwaukee Child Welfare (BMCW). The BMCW worker contacts the treatment court coordinator and they determine whether the family meets the court's eligibility criteria. If such a determination is made, the parent is given information about the program. Parents are screened for appropriateness and if appropriate, a parent is provided an opportunity to participate. Participating in the program will defer a Children in Need of Protection and Services (CHIPS) proceeding that could result in removal of the child from the parental home. Upon successful completion of the program's four phases which last a minimum of 12 to 18 months, a participant either establishes reunification with their child, or another permanency plan.

The committee determined that it is important to create a statutory structure for a family treatment court grant program, but that it is not feasible to include this structure within the current TAD program. This is primarily because family treatment court program participants are before the court not because of criminal charges, but because their families face conditions that interfere with their ability to parent their children.

Description

The bill draft creates a family treatment court grant program under the Children's Code, to be administered by DCF and operating within the court assigned to exercise jurisdiction under the Children's Code. The bill draft also creates a similar program under the Juvenile Justice Code, to be administered by DCF and operating within the court assigned to exercise jurisdiction under the Juvenile Justice Code (collectively, "juvenile court").

Under the family treatment court grant program, DCF makes grants available to counties to enable them to establish and operate programs to develop procedures that screen, assess, and provide new dispositional alternatives for parents whose children have come under the jurisdiction of the juvenile court due to parental problems related to mental illness or substance abuse. A county

that receives a grant must establish eligibility criteria for participation in the county's program, provide evidence-based treatment services to program participants, and integrate all services provided to program participants by various governmental and non-governmental entities.

The bill draft also requires counties that receive those grants to submit data to DCF that must be analyzed annually by DCF. DCF must also, every five years, prepare a comprehensive report of the program.

Under the juvenile treatment court grant program, DCF similarly makes grants available to counties to enable them to establish and operate programs to develop procedures that screen, assess, and provide new dispositional alternatives for juveniles who have problems related to mental illness or substance abuse. In all other respects the juvenile treatment court grant program is very similar to the family treatment court grant program.

Funding for the family treatment court and juvenile treatment court grant programs is within the limits of available funding from the appropriation that is used to fund both the family alcohol and other drug abuse pilot program under s. 48.547, Stats., and the juvenile alcohol and other drug abuse pilot program under s. 938.547, Stats. The appropriation is federally funded for specific, limited-term projects, to be expended as local assistance for the purposes specified.

LRB-0918/1, RELATING TO ACCESS TO IGNITION INTERLOCK DEVICE REPORTS, OCCUPATIONAL LICENSE ELIGIBILITY PERIODS FOR PARTICIPANTS IN CERTAIN TREATMENT PROJECTS, AND GRANTING RULE-MAKING AUTHORITY

Ignition Interlock Device Reports

Background

Current law requires a court to order that a person's operating privileges for the operation of a "Class D" vehicle be restricted to operating vehicles that are equipped with an ignition interlock device and, unless the court finds doing so will cause undue financial hardship, the court must also order that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device if either of the following applies:

- The person improperly refused to take a chemical test for intoxication while driving or operating a motor vehicle.
- The person has violated prohibitions on operating under the influence of an intoxicant or other drug, homicide by intoxicated use of a vehicle, or injury by intoxicated use of a vehicle, and either of the following applies:
 - The person had an alcohol concentration of 0.15% or more at the time of the offense.
 - The person is a repeat OWI offender.

DOT is required to promulgate rules to provide for the implementation of an ignition interlock device program that will be conveniently available to persons throughout this state. The rules must include provisions that include the following:

- Requiring ignition interlock device providers operating in this state to provide the department and law enforcement agencies with installation, service, tampering, and failure reports in a timely manner.
- Requiring ignition interlock device providers to notify the department of any ignition interlock device tampering, circumvention, bypass or violation resets, including all relevant data recorded in the device's memory. Upon receiving a notice, the department must immediately provide the notice and data to the assessment agency that is administering the violator's driver safety plan.

DOT rules currently require an ignition interlock service provider (service provider) to provide a certificate of installation or removal to the customer. The rules require the customer to present a copy of the certificate to DOT as a condition of obtaining a license and require the service provider to provide a copy of the certificate to the sheriff of the county where the customer resides. DOT rules also require that a service provider be responsible for all of the following:

- Following the manufacturer's specifications for service and repair.
- Reporting to the sheriff of the county where the customer resides when any failure to report for required servicing occurs. All devices shall be scheduled for service at intervals not to exceed 60 days.
- Each time a device is serviced, reviewing the data recorded in the device's memory and retain a copy of the data in the customer's file. Any tampering, circumvention, bypass, or violation resets must be immediately reported to the sheriff in the county where the customer resides.

Also under current law, an executive state agency may not promulgate a rule unless it first presents a statement of the scope of the proposed rule for approval to the Governor. The scope of a proposed rule must also be approved by the head of the agency and may only occur after the scope is approved by the Governor.

Committee members raised concerns that many treatment courts do not receive ignition interlock device reports in a timely manner because service providers are not required to provide the reports directly to the court. Committee members discussed how the inability to receive these reports in a timely manner prevents a treatment court from effectively reviewing a treatment court participant's progress and provide appropriate sanctions.

Description

This bill draft requires DOT to promulgate rules that require ignition interlock device providers operating in this state to provide installation, service, and other requested reports to DOT and, as designated by DOT, courts and law enforcement agencies. These reports must be provided in a timely manner and in a standardized format established by DOT. The bill draft also requires

DOT to promulgate rules requiring ignition interlock device providers operating in this state to notify DOT, and as designated by DOT, courts and law enforcement agencies of any ignition interlock device tampering, circumvention, failure, bypass, or violation resets, including all relevant data recorded in the device's memory. The rules must require the information to be provided in a timely manner and in a standardized format established by DOT.

This bill draft also requires DOT to present a scope of the rules it is required to promulgate regarding the ignition interlock device program, as amended by the bill draft, to the Governor within 90 days after the effective date of the bill draft. It also requires DOT to submit a proposed form of these rules to the Legislative Council Rules Clearinghouse within 15 months after the DOT Secretary approves the scope of the proposed rule.

Occupational License Waiting Periods

Background

Current law specifies when a person may become eligible for an occupational license if his or her driver's license was suspended or revoked. One requirement for eligibility is that the person wait until at least 15 days have elapsed since the date of revocation or suspension before he or she may be eligible for an occupational license, unless another minimum waiting period or immediate eligibility is expressly provided by law. In the case of an appeal that is subsequently dismissed or affirmed, the person must wait until at least 15 days have elapsed since the date of revocation or suspension following the dismissal or affirmance of the appeal to be eligible for an occupational license. However, if a person's driver's license has been suspended or revoked as a result of a second or subsequent OWI conviction, then the person must wait until 45 days have elapsed before he or she may be eligible for an occupational license.

Committee members discussed the need for a participant in a treatment court to have access to a driver's license so that he or she can attend the numerous appointments ordered by the court, including counseling services, random drug or alcohol testing, meeting with probation officers, and treatment court dates. Committee members raised concerns that a participant might not be able to comply with these treatment court obligations unless he or she had a driver's license.

Description

This bill draft provides an exception to the occupational license minimum waiting period for eligibility that is applicable to a person who has two or more prior OWI convictions, suspensions, or revocations. Under the bill draft, a court may order that a person is not subject to the 45-day minimum waiting period for an occupational license, and must specify the date that he or she becomes eligible, if the person is ordered or sentenced to comply with a county or tribal project that operates within the continuum from arrest to discharge from supervision and provides alternatives to prosecution, incarceration, or both, including suspended and deferred prosecution projects or community-based corrections (a treatment court participant). No order may be entered unless the person has completed the court-ordered assessment of his or her use of alcohol, controlled substances, or controlled substance analogs, and must be complying with the driver safety plan in order for the court to enter such an order. The court's order must specify the date that the person

becomes immediately eligible, subject to other eligibility requirements applicable to any occupational license applicant, including the 15-day minimum waiting period.

COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES

The following bill drafts were recommended by the Study Committee on Problem-Solving Courts, Alternatives, and Diversions.

STUDY COMMITTEE VOTE

The Study Committee voted by a December 10, 2014 mail ballot, to recommend the following drafts to the Joint Legislative Council for introduction in the 2015-16 Session of the Legislature. The vote on the drafts was as follows:

- WLC: 0028/2, relating to creating the criminal justice coordinating council, providing grants to certain county or tribal criminal justice projects, and making appropriations, passed on a vote of Ayes, 14 (Reps. Bies, Goyke, Petryk, and Taylor; Sen. Wirch; and Public Members Carlson, Cross, Gibart, Joski, Klekamp, Levine, Stephens, Thompson, and Triggiano); and Noes, 1 (Rep. Kooyenga). [WLC: 0028/2 subsequently became LRB-0932/1.]
- WLC: 0032/1, relating to creating family treatment court and juvenile treatment court grant programs in the department of children and families and making an appropriation, passed on a vote of Ayes, 14 (Reps. Bies, Goyke, Petryk, and Taylor; Sen. Wirch; and Public Members Carlson, Cross, Gibart, Joski, Klekamp, Levine, Stephens, Thompson, and Triggiano); and Noes, 1 (Rep. Kooyenga). [WLC: 0032/1 subsequently became LRB-0922/1.]
- WLC: 0045/1, relating to requiring court access to ignition interlock device reports, reducing occupational license minimum waiting periods for participants in a treatment court, and requiring rule promulgation, passed on a vote of Ayes, 15 (Reps. Bies, Goyke, Kooyenga, Petryk, and Taylor; Sen. Wirch; and Public Members Carlson, Cross, Gibart, Joski, Klekamp, Levine, Stephens, Thompson, and Triggiano); and Noes, 0. [WLC: 0045/1 subsequently became LRB-0918/1.]

JOINT LEGISLATIVE COUNCIL

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960 Rock Ridge Road
Burlington, WI 53105

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

COMMITTEE LIST

Legislative Council Study Committee on Problem-Solving Courts, Alternatives, and Diversions	
Chair Garey Bies , Representative 2520 Settlement Rd. Sister Bay, WI 54234	Vice Chair Evan Goyke , Representative 2734 W. State St. Milwaukee, WI 53208
Carol Carlson , Drug Treatment Court Coordinator Milwaukee County 821 West State St. Room 417 Milwaukee, WI 53233	Troy Cross , Assistant District Attorney Columbia County Columbia County Courthouse P.O. Box 638 Portage, WI 53901
Tony Gibart , Public Policy Coordinator End Domestic Abuse Wisconsin 1245 E. Washington Ave., Ste. 150 Madison, WI 53703	Matthew Joski , Sheriff Kewaunee County Sheriff's Department 620 Juneau St. Kewaunee, WI 54216
Jane Klekamp , Justice Support Services Manager Courthouse 333 Vine St., Room 740 La Crosse, WI 54601	Dale Kooyenga , Representative 15365 St. Therese Blvd. Brookfield, WI 53005
Elliott Levine , Circuit Judge Circuit Court Branch 2 LaCrosse County Courthouse 333 Vine St., Room 3100 La Crosse, WI 54601	Warren Petryk , Representative S. 9840 Hwy. 93 Eleva, WI 54738
Joann Stephens , President Stable Life, Inc. W7897 Eagle Ave. Westfield, WI 53964	Chris Taylor , Representative 2910 Oakridge Ave. Madison, WI 53704
Kelli Thompson , State Public Defender Wisconsin State Public Defender Office 315 N. Henry St. 2nd Floor Madison, WI 53707	Mary Triggiano , Circuit Court Judge Milwaukee County Juvenile Justice Center 10201 W. Waterwon Plank Rd. Wauwatosa, WI 53226
Michael Waupoose , Program Director UW Health, Behavioral Health and Recovery/Chair of SCAODA 1102 S. Park St. Madison, WI 53703	Robert Wirch , Senator 979 Wood Rd. #104 Kenosha, WI 53144

STUDY ASSIGNMENT: The Study Committee directed to review the 50+ courts currently in operation in Wisconsin that utilize nontraditional adjudication methods, the effect they have on recidivism, and the net fiscal impact of these courts. The committee shall examine courts, such as veterans courts, drug and alcohol courts, mental health courts, and drunk driving courts, in Wisconsin and nationally and consider: (a) effectiveness of existing problem-solving courts in Wisconsin in reducing recidivism, the costs to administer these courts, and the savings realized; (b) best practices of existing problem-solving courts, both in Wisconsin and elsewhere, and potential implementation of these practices at the state level; (c) efforts to establish problem-solving courts that serve multiple counties, impediments to these efforts, and potential changes to improve regionalization of such courts; and (d) appropriate role and structure of state-level training and coordination.

16 MEMBERS: 5 Representatives; 1 Senator; and 10 Public Members.

LEGISLATIVE COUNCIL STAFF: Laura Rose, Deputy Director; Melissa Schmidt, Senior Staff Attorney; and Tracey Young, Support Staff.

OTHER RECOMMENDATIONS

State of Wisconsin JOINT LEGISLATIVE COUNCIL

Co-Chairs
LUTHER OLSEN
Senator

JOAN BALLWEG
Representative



LEGISLATIVE COUNCIL STAFF
Terry C. Anderson
Director
Laura D. Rose
Deputy Director

December 1, 2014

Senator Robert Cowles, Co-Chair
Joint Legislative Audit Committee
Room 118 South, State Capitol
Madison, WI 53702

Representative Samantha Kerkman, Co-Chair
Joint Legislative Audit Committee
Room 315 North, State Capitol
Madison, WI 53702

Dear Senator Cowles and Representative Kerkman:

The Joint Legislative Council's Study Committee on Problem-Solving Courts, Alternatives, and Diversions was created by the Joint Legislative Council and has been meeting since June of 2014. The committee's charge is as follows:

The Study Committee is directed to review the 50+ courts currently in operation in Wisconsin that utilize nontraditional adjudication methods, the effect they have on recidivism, and the net fiscal impact of these courts. The committee shall examine courts, such as veterans courts, drug and alcohol courts, mental health courts, and drunk driving courts, in Wisconsin and nationally and consider: (a) effectiveness of existing problem-solving courts in Wisconsin in reducing recidivism, the costs to administer these courts, and the savings realized; (b) best practices of existing problem-solving courts, both in Wisconsin and elsewhere, and potential implementation of these practices at the state level; (c) efforts to establish problem-solving courts that serve multiple counties, impediments to these efforts, and potential changes to improve regionalization of such courts; and (d) appropriate role and structure of state-level training and coordination.

The committee is comprised of six legislators and 10 public members. The public members are professionals from across the state who are involved with various aspects of treatment courts, including judges, an assistant district attorney, the State Public Defender, law enforcement, treatment court professionals, alcohol and drug treatment

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service providers, and a domestic violence advocate. A membership list of committee members is enclosed with this letter.

At its October 29, 2014 meeting, the committee approved a motion that a request for an audit of the various problem-solving courts in Wisconsin, including treatment alternatives and diversion (TAD) court projects, to determine whether racial, demographic, or other disparities exist between treatment court participants and individuals who are denied participation and for the audit report to include recommendations on how to remediate such disparities. I am writing on behalf of the committee to request such an audit.

For background, at the September 17, 2014 meeting of the committee, the members discussed recent reports indicating that there is a racial disparity among defendants that participate in treatment courts. For example, the committee discussed a report that in 2012, African-Americans made up just 10% of those participating in the Dane County drug court for that year, even though about one-third of those arrested for drug crimes in Dane County were black, according to the Wisconsin Office of Justice Assistance. The report went on to state that as recently as May, 2014, "despite a concerted effort to increase minority participation, 84 percent of defendants in Dane County drug court were white and 14 percent were black." [Taylor Chase, *Wisconsin Drug Courts Grow, but Racial Disparities Persist*, "The Cap Times," Aug. 17, 2014.]

The committee appreciates your consideration of this audit request. Please contact me if you have any questions about these recommendations.

Sincerely,



Representative Garey Bies
Chairperson, Study Committee on Problem
Solving Courts, Alternatives, and Diversions

GB:ty
Enclosure

State of Wisconsin
JOINT LEGISLATIVE COUNCIL

Co-Chairs
LUTHER OLSEN
Senator

JOAN BALLWEG
Representative



LEGISLATIVE COUNCIL STAFF
Terry C. Anderson
Director
Laura D. Rose
Deputy Director

October 2014

Attorney General J.B. Van Hollen
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707-7857

Dear Attorney General Van Hollen:

The Joint Legislative Council's Study Committee on Problem-Solving Courts, Alternatives, and Diversions was created by the Joint Legislative Council and has been meeting since June of 2014. The committee's charge is as follows:

The Study Committee is directed to review the 50+ courts currently in operation in Wisconsin that utilize nontraditional adjudication methods, the effect they have on recidivism, and the net fiscal impact of these courts. The committee shall examine courts, such as veterans courts, drug and alcohol courts, mental health courts, and drunk driving courts, in Wisconsin and nationally and consider: (a) effectiveness of existing problem-solving courts in Wisconsin in reducing recidivism, the costs to administer these courts, and the savings realized; (b) best practices of existing problem-solving courts, both in Wisconsin and elsewhere, and potential implementation of these practices at the state level; (c) efforts to establish problem-solving courts that serve multiple counties, impediments to these efforts, and potential changes to improve regionalization of such courts; and (d) appropriate role and structure of state-level training and coordination.

The committee is comprised of six legislators and 10 public members. The public members are professionals from across the state who are involved with various aspects of treatment courts, including judges, an assistant district attorney, the State Public Defender, law enforcement, treatment court professionals, alcohol and drug treatment

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service providers, and a domestic violence advocate. A membership list of committee members is enclosed with this letter.

At the August 20, and September 17, 2014 meetings of the committee, the members approved three recommendations that it would like to share with you. The first recommendation is to support the Director of State Courts in continuing the collaboration with the Department of Justice in developing an integrated web-based data system for the collection of participant-level data from Wisconsin treatment court projects that focus on diversion and alternatives to incarceration. The purpose of this integrated system is to collect and provide ongoing monitoring of data to assure the treatment courts' fidelity to evidence-based practices.

The second recommendation is to continue the Treatment Alternatives and Diversion (TAD) Advisory Committee, to ensure the continued collaboration among local, county, state, and national partners that has been the foundation of TAD, and other treatment court successes.

The third recommendation relates to implementation of the National Incident-Based Reporting (IBR) system. The IBR 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 program. The committee recommends that the Department of Justice (DOJ) pursue the statewide implementation of IBR. This relates to more effective operation of treatment courts, because IBR can assist courts in more precisely classifying offenders to determine which offenders are most effectively placed in treatment courts.

The committee appreciates DOJ's commitment to alternatives to incarceration, and is pleased to contribute to this effort. Please contact me if you have any questions about these recommendations.

Sincerely,

A handwritten signature in black ink that reads "Gary Bies". The signature is written in a cursive, flowing style.

Representative Gary Bies
Chairperson, Study Committee on Problem
Solving Courts, Alternatives, and Diversion

GB:ty
Enclosure

State of Wisconsin
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LEGISLATIVE COUNCIL STAFF
Terry C. Anderson
Director
Laura D. Rose
Deputy Director

December 2014

Chief Justice Shirley Abrahamson
Wisconsin Supreme Court
Room 16 East State Capitol
P.O. Box 1688
Madison, WI 53701-1688

Dear Chief Justice Abrahamson,

The Joint Legislative Council's Study Committee on Problem Solving Courts, Alternatives, and Diversions was created by the Joint Legislative Council and has been meeting since June of 2014. The committee's charge is as follows:

The Study Committee is directed to review the 50+ courts currently in operation in Wisconsin that utilize nontraditional adjudication methods, the effect they have on recidivism, and the net fiscal impact of these courts. The committee shall examine courts, such as veterans courts, drug and alcohol courts, mental health courts, and drunk driving courts, in Wisconsin and nationally and consider: (a) effectiveness of existing problem-solving courts in Wisconsin in reducing recidivism, the costs to administer these courts, and the savings realized; (b) best practices of existing problem-solving courts, both in Wisconsin and elsewhere, and potential implementation of these practices at the state level; (c) efforts to establish problem-solving courts that serve multiple counties, impediments to these efforts, and potential changes to improve regionalization of such courts; and (d) appropriate role and structure of state-level training and coordination.

A membership list of committee members is enclosed with this letter.

The committee is comprised of six legislators and 10 public members. The public members are professionals from across the state who are involved with various aspects

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of treatment courts, including judges, an assistant district attorney, the State Public Defender, law enforcement, treatment court professionals, alcohol and drug treatment service providers, and a domestic violence advocate. A membership list of committee members is enclosed with this letter.

At the August 20, 2014 meeting of the committee, the members approved two recommendations that it would like to share with you. The first is to maintain the special projects manager position in the Director of State Courts office to support training efforts for county treatment court personnel. By making this recommendation, the committee acknowledges the key role that adequate training contributes to effective treatment court programs.

The second recommendation is to support the Director of State Courts in continuing the collaboration with the Department of Justice in developing an integrated web-based data system for the collection of participant-level data from Wisconsin treatment court projects that focus on diversion and alternatives to incarceration. The purpose of this integrated system is to collect and provide ongoing monitoring of data to assure the treatment courts' fidelity to evidence-based practices.

The committee appreciates the Supreme Court's commitment of resources to studying and implementing effective justice strategies and alternatives to incarceration, and is pleased to contribute to this effort. Please contact me if you have any questions about these recommendations.

Sincerely,



Representative Garey Bies
Chairperson, Study Committee on Problem
Solving Courts, Alternatives, and Diversions

GB:ty

Enclosure

cc: Sara Ward-Cassady, Deputy Director for Court Operations, Director of State Courts office.

Nancy Rottier, Legislative Liaison, Director of State Courts office

COMMITTEE MATERIALS LIST

[Copies of documents are available at www.legis.wisconsin.gov/lc]

June 25, 2014 Meeting

- Staff Brief 2014-01 Problem-Solving Courts, Alternatives, and Diversions (June 18, 2014)
- Presentation by Carson Fox, COO, National Association of Drug Court Professionals
- Presentation by Judge Juan B. Colas, Dane County Circuit Judge
- Presentation by Ray Luick, Justice System Improvement Specialist, Department of Justice
- Presentation by Judge David Reddy, Walworth County
- Handout from Walworth County

July 22, 2014 Meeting

- Presentation by Second Judicial District of Wisconsin Veterans Treatment Court
- Handout, Second Judicial District of Wisconsin Veterans Treatment Court
- Presentation, by Michelle Cern, Director of State Courts Office
- Handout, "Inmate Profile", submitted by Tony Streveler, Department of Corrections
- Presentation, Tony Streveler, Department of Corrections
- legislators
- Sheila Malec, Eau Claire County Department of Human Services
- Presentation, by Kit R. Van Stelle, Researcher/Principal Investigator, UW Population of Health Institute

August 20, 2014 Meeting

- Handout, submitted by Tony Streveler, Department of Corrections.
- Memorandum, from David Callender, Government Affairs Associate (August 20, 2014).
- Memo No. 1., Options for Committee Discussion (August 13, 2014)
- Attachment 1 - LRB-2614/P1
- Attachment 2 - LRB-2614-P4
- Memo No. 2., Mental Health Court Evaluations (August 13, 2014)
- Memo, submitted by Representative Joe Sanfelippo (August 20, 2014)
- Handout, submitted by Judge Amanda WhiteEagle, Ho-Chunk Nation
- PowerPoint Presentation, by Judge Amanda WhiteEagle, Ho-Chunk Nation

September 17, 2014 Meeting

- WLC: 0001/P1, relating to occupational license minimum waiting periods for participants in a treatment court.
- WLC: 0002/P1, an amendment to LRB-2614/P4, relating to violent offender participation in TAD.
- WLC: 0003/P1, relating to authorizing a position for a statewide treatment court coordinator in the director of state courts office, and increasing an appropriation.
- WLC: 0004/P1, relating to authorizing treatment court coordinators for each judicial administrative district and increasing an appropriation.
- WLC: 0005/P1, relating to designating funds for evaluation of treatment court programs.
- WLC: 0006/P1, relating to permitting defendants to be assigned to treatment courts outside of their county of residence as a condition of probation.
- WLC: 0007/P1, relating to treatment court access to ignition interlock device reports.
- 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.
- WLC: 0009/P1, and amendment to LRB-2614/P4, relating to expansion of TAD to encompass family dissolution.
- WLC: 0010/P1, relating to judicial authority to order home detention as a condition of probation.
- Article, "Wisconsin Drug Courts Grow, But Racial Disparities Persist" (August 17, 2014)
- Draft Letter, to Chief Justice Shirley Abrahamson, Wisconsin Supreme Court (September 2014).
- LRB-2614/P4, relating to creating the criminal justice coordinating council, providing grants to certain county or tribal criminal justice projects, and making appropriations.
- 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).
- Draft Letter, to Attorney J.B. Van Hollen, Department of Justice (September 2014).

October 29, 2014 Meeting

- WLC: 0001/P2, relating to occupational license minimum waiting periods for participants in a treatment court.
- WLC: 0005/1, relating to designating funds for evaluation of treatment court programs.
- WLC: 0006/1, relating to permitting defendants to be assigned to treatment courts outside of their county of residence as a condition of probation.
- WLC: 0007/P2, relating to treatment court access to ignition interlock devices reports.
- WLC: 0010/P2, relating to judicial authority to order home detention as a condition of probation.

- WLC: 0028/1, relating to creating the criminal justice coordinating council, providing grants to certain county or tribal criminal justice projects, and making appropriations.
- WLC: 0032/P1, relating to creating a family treatment court grant program in the department of children and families and making an appropriation.
- WLC: 0033/P1, an amendment to WLC: 0028/1.
- WLC: 0033/P2, an amendment to WLC: 0028/1.
- WLC: 0034/P1, an amendment to WLC: 0028/1.
- WLC: 0034/P2, an amendment to WLC: 0028/1.
- Draft letter to Senator Cowles and Representative Samantha Kerkman, Co-Chairs, Joint Legislative Audit Committee.
- Handout, submitted by Public Member Matthew Joski.

November 25, 2014 Mail Ballot

- WLC: 0028/2, relating to creating the criminal justice coordinating council, providing grants to certain county or tribal criminal justice projects, and making appropriations.
- WLC: 0032/1, relating to creating family treatment court and juvenile treatment court grant programs in the department of children and families and making an appropriation.
- WLC: 0045/1, relating to requiring court access to ignition interlock device reports, reducing occupational license minimum waiting periods for participants in a treatment court, and requiring rule promulgation.
- Results of Mail Ballot