



# Joint Legislative Council's Report of the Study Committee the Review of Criminal Penalties

[2015 Assembly Bill 128]

March 31, 2015

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# STUDY COMMITTEE ON THE REVIEW OF CRIMINAL PENALTIES

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March 31, 2015

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# PART I

## KEY PROVISIONS OF COMMITTEE RECOMMENDATION

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The Joint Legislative Council recommends the following for introduction in the 2015-16 Session of the Legislature.

### **2015 ASSEMBLY BILL 128, RELATING TO CLASSIFYING MISDEMEANORS, REPEALING OR MODIFYING OBSOLETE MISDEMEANORS, AND CHANGING PROCEDURE AND DISCOVERY IN CERTAIN CIVIL ACTIONS**

Assembly Bill 128 does all of the following:

- Classifies the majority of unclassified misdemeanors in the Wisconsin Statutes.
- Repeals misdemeanors identified by the Study committee as obsolete or no longer relevant.
- Changes the penalty for certain misdemeanors to civil forfeitures.
- Authorizes law enforcement officers to issue a citation for any civil forfeiture offense unless a different procedure is specifically prescribed.
- Applies the criminal procedure rules of discovery to certain civil forfeiture proceedings initiated by citation.



# PART II

## COMMITTEE ACTIVITY

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### ASSIGNMENT

The Joint Legislative Council established the Study Committee on the Review of Criminal Penalties and appointed the chairperson by a March 19, 2014 mail ballot. The committee was directed to review the penalties for misdemeanor and low-level felony offenses. The committee was directed to determine: whether current misdemeanor or low-level felony penalties are appropriate; whether any crimes should be classified; and whether any offenses are outdated or should be decriminalized.

Membership of the study committee was appointed by a May 21, 2014 mail ballot. The final committee membership consisted of one Senator, five Representatives, and nine public members. A list of committee members is included as **Appendix 3** to this report.

On July 9, 2014, **Representative Rob Hutton**, chair of the study committee, formed two subcommittees to study certain issues within the study committee's scope and to make recommendations on these issues to the full study committee. He directed the Subcommittee on Obsolete Misdemeanors to identify misdemeanor offenses that may be repealed because they are obsolete or no longer relevant. He directed the Subcommittee on Penalty Alignment and Organization to make recommendations about aligning the penalties of misdemeanors so that crimes of similar severity have similar penalties, to determine whether any unclassified misdemeanors should be classified, and to identify misdemeanors that the study committee might consider either reducing to a forfeiture or elevating to a felony.

### SUMMARY OF MEETINGS

The study committee held meetings on the following dates:

June 24, 2014

November 12, 2014

December 18, 2014

The Subcommittee on Penalty Alignment and Organization held two meetings. Those meetings were held on the following dates:

August 6, 2014

October 17, 2014

The Subcommittee on Obsolete Misdemeanors held meetings held two meetings. Those meetings were held on the following dates:

August 6, 2014

October 10, 2014

At the June 24, 2014 meeting, the committee heard presentations from the following speakers:

**Thomas Hammer, Professor, Marquette University Law School**, discussed the process that the Wisconsin Criminal Penalties Study Committee used when reviewing and classifying felony offenses. Professor Hammer also provided a primer on misdemeanor penalties and identified a number of challenges and opportunities, for the committee, of reviewing and possibly classifying these offenses.

**Kurt Klomberg, Dodge County District Attorney**, provided the committee with an overview of how his office makes charging decisions and the role criminal penalties play in making those decisions.

**John Voelker, Director of the Office of State Courts, Tony Streveler, Director of Research and Policy for the Department of Corrections (DOC), and Terry Dryden, Washburn County Sheriff**, summarized various trends in the criminal justice system with respect to incidences of particular types of crime, arrests for various crimes, criminal case filings, and changes in jail and prison populations.

On August 6, 2014, the Subcommittee on Penalty Alignment and Organization met to discuss how to carry out the task with which it had been charged. The meeting began with a presentation by **Judge Lisa Stark, Wisconsin Court of Appeals**, on the factors that inform how judges sentence defendants and the importance of establishing consistent penalties so that crimes of similar severity carry similar punishments.

**Mike Kowalkowski, Staff Attorney, Bureau of Legal Services, Department of Natural Resources (DNR)**, provided information to the subcommittee about the penalties for certain crimes DNR enforces. Mr. Kowalkowski offered to assist the subcommittee in identifying misdemeanors that may present special considerations when evaluating whether the penalties should be modified, such as offenses associated with programs the state administers under authority delegated by the federal Environmental Protection Agency.

Also at that meeting, the subcommittee decided to recommend classifying the majority of misdemeanors that are currently unclassified. The subcommittee adopted a two-step process to develop a proposal for classification: first, committee staff would assign each unclassified misdemeanor to a class according to principles the subcommittee developed; next, the subcommittee would review these initial classifications and make any adjustments it deemed as necessary.

In developing the principles to guide the initial classification of misdemeanors, the subcommittee expressed its intention to defer to prior legislative determinations about the severity of offenses as much as possible, and to organize unclassified misdemeanor offenses by using the three classes currently used in the Criminal Code. The subcommittee therefore directed that where the current punishment for an unclassified misdemeanor is exactly the same as the penalty prescribed for a particular class of misdemeanors, the crime be placed into that class. For offenses in which the current penalty does not exactly align with a misdemeanor class, the subcommittee



directed that the offense be classified based on the amount of jail time prescribed under current law. For offenses in which the current maximum prescribed jail time lies between two existing classes or is greater than nine months, the subcommittee directed that the crime be placed in the lower class or in Class A, respectively. The subcommittee directed that misdemeanors that are currently punished by a fine only not be classified because classification would add, as a possible penalty, jail time for offenses the Legislature had previously chosen not to punish by incarceration.

Finally, the subcommittee determined it should avoid altering the penalties for certain offenses that the Legislature has either indicated a strong intent to treat differently than other types of offenses or offenses that may be politically controversial. Therefore, the subcommittee directed that no changes be made to operating while intoxicated and drug offenses, or crimes related to elections and public officials.

The Subcommittee on Obsolete Misdemeanors also met on August 6, 2014. At that meeting, the subcommittee established four criteria to assist it in identifying misdemeanors that might be obsolete or no longer relevant:

- Whether it is still possible to commit the offense.
- Whether the offense is responsive to a problem that still exists.
- The existence of other offenses that prohibit the same conduct.
- The frequency with which the offense is charged.

To identify offenses that might satisfy one or more of these criteria, the subcommittee directed staff to identify misdemeanors that have not been charged recently. Because of logistical issues associated with searching the charging history for each of the more than 900 misdemeanors, Representative Neylon, chair of the subcommittee, later directed that this research be confined to misdemeanors within the Criminal Code using data the courts provided going back three years. To assist the subcommittee in identifying misdemeanors outside the Criminal Code that might meet the subcommittee's criteria, Representative Neylon also directed the subcommittee's staff to solicit input from the state agencies under whose purview they fall.

The Subcommittee on Obsolete Misdemeanors met on October 10, 2014 to review the input it received from agencies and the data it had requested on uncharged misdemeanor offenses. Based on this input and data, the subcommittee identified 15 misdemeanors it recommended be repealed.

The subcommittee determined s. 97.18, Stats., which criminalizes certain conduct related to selling and serving oleomargarine, appeared to meet the criteria it established. But the subcommittee noted that when a bill was introduced recently to repeal this statute, it was opposed by at least one trade organization. The subcommittee recommended that the trade organization be invited to testify to the full Study committee and that the full Study committee then determine whether s. 97.18, Stats., should be repealed.

Finally, the subcommittee identified three offenses that are not obsolete, but that in the subcommittee's judgment should be reduced to civil forfeitures. These offenses are:

- Section 146.085 (charging a fee for the use of a toilet).

- Section 944.36 (solicitation of drinks by employees or entertainers).
- Section 985.03 (publishing legal notices).

The subcommittee directed committee staff to prepare a bill draft for the full study committee that incorporated all of the above recommendations.

On October 17, 2014, the Subcommittee on Penalty Alignment and Organization met to review Memo No. 2 *Classification of Unclassified Misdemeanors*, and an attachment to Memo No. 2, a chart that contained the initial classification assignments the subcommittee had requested at its August 6, 2014 meeting. The subcommittee adjusted these assignments as it deemed necessary, and also revisited the topic of misdemeanors that are currently punished only by a fine. The subcommittee recommended that offenses that the Legislature has chosen not to punish with a term of imprisonment should, in most cases, be civil forfeitures. The subcommittee instructed staff to provide the subcommittee with a list of fine-only misdemeanors for the subcommittee members' review, and agreed that the subcommittee would recommend that each misdemeanor on the list become a civil forfeiture with the exception of any offense a subcommittee member identified as one that should remain a misdemeanor.

The subcommittee directed committee staff to update the chart of the subcommittee's initial classification assignments to reflect the modifications the subcommittee made to these classification assignments at the October 17, 2014 and to distribute the chart to the full Study committee as the subcommittee's substantive recommendations.

On November 12, 2014, the full study committee met to review:

- LRB-0473/P2, relating to repealing or modifying obsolete misdemeanors, which constituted the Subcommittee on Obsolete Misdemeanor's recommendations to the full study committee; and
- *Recommendations of the Subcommittee on Penalty Alignment and Organization*, a chart that contained that subcommittee's substantive recommendations.

The meeting began with an explanation by **Representative Adam Neylon**, of the process the Subcommittee on Obsolete Misdemeanors used to identify misdemeanors that are obsolete or no longer relevant. Representative Neylon was joined by **Mike Queensland, Staff Attorney, Legislative Council**, who described LRB-0473/P2.

**Nate Ristow, Legislative Liaison, Department of Revenue (DOR)**, distributed a letter describing three additional misdemeanor offenses, not included in the subcommittee's recommendations, that DOR had subsequently determined were obsolete and recommended be repealed: s. 70.40 (2) (failure, by a dock operator, to furnish a list of all iron ore concentrates), s. 77.53 (7) (requirement to separately display the sales tax separately from the list price on a receipt), and s. 139.95 (4) (prohibiting DOR from disclosing information obtained through the administration of the tax on controlled substances). DOR's rationale for recommending repeal for the first and third of these misdemeanors (ss. 70.40 (2) and 139.95 (4), Stats.) was that these provisions had been declared unconstitutional by federal courts. The rationale DOR provided for

recommending that s. 77.53 (7), Stats., relating to display of sales tax on receipts, was that it is burdensome and unnecessary. The committee agreed to modify LRB-0473/P2 to repeal the two statutes DOR suggested were obsolete because they had been ruled unconstitutional. The committee rejected DOR's suggestion to repeal s. 77.53 (7), Stats.

**Brad Legreid, Director of the Wisconsin Dairy Products Association**, testified, at the committee's invitation, to address whether s. 97.18, Stats., which relates to selling and serving oleomargarine, is obsolete. Mr. Legreid testified that the statute is symbolic of the importance of the dairy industry to Wisconsin and that he opposed proposals to repeal it. He indicated, however, that he would not oppose changing the penalty to a civil forfeiture. Although there was not consensus among the committee members about whether s. 97.18, Stats., should be fully repealed, there was consensus that the criminal penalty should be eliminated. The committee agreed to repeal the criminal penalty for violations of s. 97.18, Stats., and instead specify that the default civil penalty for violations of ch. 97, Stats., would apply to violations of this statute.

**Representative John Spiros, Chair of the Subcommittee on Penalty Alignment and Organization**, described the process used by the subcommittee to complete the tasks it was directed to undertake. Representative Spiros was joined by **David Moore, Staff Attorney, Legislative Council**, who described the chart titled *Recommendations of the Subcommittees on Obsolete Misdemeanors and Penalty Alignment and Organization*.

**Mr. Kowalkowski, and Tim Gary, Legislative Liaison, DNR**, provided input on the subcommittee's recommendations with respect to misdemeanors that DNR enforces. Mr. Kowalkowski and Mr. Gary suggested the committee retain the penalties provided under current law for offenses related to the State's responsibilities to enforce federal environmental laws, as well as offenses related to controversial issues such as mining. Mr. Kowalkowski and Mr. Gary also suggested the committee not classify hunting and fishing offenses related to deer, elk, bear, and sturgeon. The committee agreed to retain the penalties provided under current law for all offenses related to the State's responsibilities to enforce federal environmental laws and all penalties related to mining. The committee therefore directed committee staff to modify the subcommittee's recommendations to eliminate recommendations for four offenses related to these topics. The committee also directed that the subcommittee's recommendations to classify hunting and fishing offenses related to deer, elk, bear, and sturgeon be retained.

**David Meany, Chief Legal Counsel, of the Department of Agriculture, Trade and Consumer Protection (DATCP)**, requested that adjustments be made to the subcommittee's recommendations for: s. 94.71 (1) (a) 2. (pesticide violations by a private applicator); s. 94.77 (1), (various plant industry violations); s. 95.21 (10) (b), (refusal of an owner to comply with an order or quarantine); and s. 95.99 (1) (various animal health violations). The study committee agreed to adopt DATCP's recommendations with one modification; rather than raise the penalty for refusal to comply with an order to quarantine from a Class C misdemeanor to a Class B misdemeanor, as DATCP suggested, the committee agreed to suggest the penalty be raised to a Class A misdemeanor.

**Public Member Jill Karofsky** distributed feedback to the subcommittee's recommendations that she had received from colleagues at the Department of Justice. Based on this feedback, the study committee agreed to modify the subcommittee's recommendations by retaining current law

for s. 103.18 (threat or promise to influence vote), s. 103.61 (punishment for contempt), s. 175.05 (going upon a closed or restricted highway), and s. 885.11 (3) (punishment in courts for disobedient witness). The study committee also agreed to modify the subcommittee's recommendations by increasing the maximum forfeiture for violations of s. 26.20 (9) (railway fire protection devices) to \$10,000.

Mr. Ristow addressed the committee again to discuss aspects of the subcommittee's recommendations that DOR suggested be modified. **Alex Ignatowski, Legislative Liaison, and Dennis Schuh, Deputy Legal Counsel**, Department of Health Services (DHS), requested additional time to develop input regarding the subcommittee's recommendation. The study committee requested DOR and DHS provide more information about their respective suggestions prior to the next meeting.

At the December 18 meeting, Mr. Moore and Mr. Queensland presented Memo No. 6, *Options for Legislation*. This Memo addressed issues raised at the November 12, 2014, study committee meeting about the authority of law enforcement officers to issue citations for civil forfeitures and the discovery rules that apply in civil forfeiture actions.

Following discussion of Memo No. 6, the study committee directed committee staff to prepare a bill draft that would change current law so that any civil forfeiture action may be initiated by a citation under the procedure provided by s. 778.25, Stats., unless a different procedure is specifically prescribed. The committee also directed that this draft modify current law to provide that the criminal procedure rules of discovery apply to any civil forfeiture proceeding initiated by the procedure under s. 778.25, Stats.

Mr. Moore and Mr. Queensland then led a discussion on *Draft Recommendations on Misdemeanor Classifications (Draft Recommendations)*, which had been distributed to the committee in advance of the meeting. Mr. Moore and Mr. Queensland told the committee this document was an updated version of the Subcommittee on Penalty Alignment and Organization's preliminary classifications that reflected the changes the full committee had made to those recommendations at the November 12, 2014 meeting. Mr. Moore and Mr. Queensland explained that DOR and DHS staff had prepared written suggestions to these recommendations for the committee's discussion and were also in attendance to answer any questions about these suggestions.

The committee first discussed DOR's suggestions, which were contained in a letter to Representative Hutton from Mr. Ristow. Based on the suggestions in that letter, the study committee agreed to modify the recommendations in the *Draft Recommendations* as follows:

- Retain current law for certain fine-only misdemeanors related to alcohol beverage regulation that, in the *Draft Recommendations*, the subcommittee had preliminarily recommended be changed to civil forfeitures.
- Provide a criminal penalty for second or subsequent violations of cigarette and tobacco retailer licenses in which a person was also personally guilty of a failure to exercise due care to prevent the violation. [s. 134.65 (5), Stats.]

- Penalize violations of s. 78.73 (3), Stats., relating to licenses issued under ch. 78, *Motor Vehicle and General Aviation Fuel Taxes*, as a Class C misdemeanor.
- Apply a higher penalty for second and subsequent violations of s. 139.03 (5) (c), Stats., relating to transporting intoxicating liquor, than first offense violations. The committee agreed to recommend that first-offense violations be penalized as a Class B misdemeanor and second and subsequent offenses be penalized as a Class A misdemeanor.

The committee then discussed DHS's suggestions, which were contained in a memorandum from Mr. Ignatowski to the committee. Based on this memorandum, the committee agreed to retain the penalties provided under current law for all of the misdemeanors contained within ch. 49, Stats., *Public Assistance and Children and Family Services*.

The study committee directed committee staff to prepare one bill draft that included the following:

- The *Draft Recommendations*, as modified by the committee at the December 18, 2014 meeting.
- LRB-0473/P2, relating to repealing or modifying obsolete misdemeanors, as modified by the committee at the November 12, 2014 meeting.
- Provisions authorizing the use of the civil forfeiture citation procedure in ch. 778, Stats., for any civil forfeiture for which a different procedure is not expressly provided, and applying the criminal procedure rules of discovery to a civil forfeiture proceeding initiated by a citation under the ch. 778 procedure.
- A delayed effective date.

The study committee then briefly discussed topics that the study committee had not taken up, but that various members of the committee had raised as issues that deserve further study. The study committee agreed to direct committee staff, in the committee's report to the Joint Legislative Council, to suggest the Joint Legislative Council consider the following topics for later study:

- The financial consequences of conviction.
- Expungement and conditional plea authority.
- Diversion programs and a victim's right to restitution.
- Misdemeanor options for first-offense drug possession.
- Criminal sentencing.
- Consolidating or reorganizing regulatory misdemeanors that are similar to offenses in the Criminal Code of a more general nature.

More detail about some of these issues is contained in memoranda Mr. Kempinen prepared, which are available on the committee's web site.

This was the final meeting of the study committee. LRB-1635/1 was prepared to reflect the drafting instructions approved by the study committee. This draft was approved in a February 13, 2014 ballot.

# PART III

## RECOMMENDATION INTRODUCED BY THE JOINT LEGISLATIVE COUNCIL

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This Part of the report provides background information on, and a description of, the bill as recommended by the Study Committee on the Review of Criminal Penalties and introduced by the Joint Legislative Council.

### **2015 ASSEMBLY BILL 128**

#### **Background**

Classified criminal offenses are offenses for which the penalty is established by reference to a particular “class” that corresponds to a set penalty range. Under current law, misdemeanors in chs. 939 to 951 of the statutes (the Criminal Code) are classified as follows:

- Class A Misdemeanor, which is punishable by a fine not to exceed \$10,000, imprisonment not to exceed 9 months, or both.
- Class B Misdemeanor, which is punishable by a fine not to exceed \$1,000, imprisonment not to exceed 90 days, or both.
- Class C Misdemeanor, which is punishable by a fine not to exceed \$500, imprisonment not to exceed 30 days, or both.

Misdemeanors that are codified in the portions of the Wisconsin Statutes outside the Criminal Code, however, are not classified. Instead, the penalties for these “unclassified” misdemeanors are established separately for each offense.

Offenses that are punishable by a forfeiture are not crimes, but civil offenses. Generally, a law enforcement officer may only issue a citation for a civil offense violation if a statute expressly provides this authority. When a statute authorizes a law enforcement officer to issue a citation for a civil offense the citation is generally sufficient to serve as the initial pleading for the action and gives a court jurisdiction over the person. When authority for a law enforcement officer to issue a citation for a forfeiture offense violation is not provided by statute, the offense is prosecuted by a district attorney through the filing of a complaint.

Wisconsin law provides specific discovery rules for certain types of offenses; for example, discovery is generally limited for traffic-related offenses, whether the offense is civil or criminal. But in general, under Wisconsin law, the criminal procedure rules of discovery apply to misdemeanor proceedings and the civil procedure rules of discovery apply to civil forfeiture proceedings.

## Description

### *Classification of Misdemeanors*

Assembly Bill 128 classifies the majority of the unclassified misdemeanors within the Wisconsin Statutes by placing each unclassified misdemeanor within one of the three classes of misdemeanors listed above. All of the misdemeanors the bill classifies are located outside of the Criminal Code.

The bill does not classify, or otherwise affect the penalties for, the following categories of crimes: operating while intoxicated; drug offenses; crimes related to elections and public officials; crimes related to public assistance; crimes related to mining; crimes related to federally delegated environmental protection programs; and various other misdemeanor offenses the study committee directed not be classified.

### *Repeal of Obsolete Misdemeanors*

Assembly Bill 128 repeals the following offenses, determined by the study committee to be obsolete or no longer relevant:

- Section 70.40 (2) (failure by a dock operator to furnish a list of all iron ore concentrates).
- Section 93.21 (failure by milk contractors to issue required statements).
- Section 93.35 (weather modification).
- Section 100.15 (trading stamps).
- Section 120.13 (35) (b) 1. (unlawful presence in school buildings that provokes a breach of the peace).
- Section 134.35 (time of filing endorsed on telegrams delivered).
- Section 134.36 (telegraph; divulging message; preference in sending).
- Section 134.37 (divulging message or forging receipt).
- Section 134.38 (companies to post copies of s. 134.37).
- Section 134.39 (fraudulent knowledge of dispatch; injury to wires; interference).
- Section 139.95 (4) (prohibiting DOR from disclosing information obtained through the administration of the tax on controlled substances).
- Section 167.13 (operation of corn shredders purchased prior to June 12, 1909).
- Section 167.18 (threshing machine joints to be covered).
- Section 175.09 (2) and (3) (failure to use standard time).
- Section 175.15 (endurance contests).



- Section 199.105 (3) (interference with the Citizens Utility Board).
- Section 199.14 (3) (corrupt practices and conflicts of interest related to the Citizens Utility Board).

#### *Misdemeanors Changed to Civil Forfeitures*

Assembly Bill 128 changes the penalty for certain misdemeanor offenses to a civil forfeiture. Most of the misdemeanors the bill changes to a civil forfeiture are misdemeanors that are currently punishable by a fine only, not by a term of imprisonment. Generally, the amount of the monetary penalty remains the same for offenses the bill changes to a civil forfeiture; that is, the bill generally changes the penalty for an offense punishable by a fine of certain amount to a forfeiture of the same amount.

#### *Civil Forfeiture Procedures*

Assembly Bill 128 authorizes a law enforcement officer to initiate any civil forfeiture action by issuing citation using the process provided under s. 778.25, unless a different procedure is specifically prescribed. Under the bill, the criminal procedure rules of discovery apply to a civil forfeiture action initiated by citation under s. 778.25



## COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES

The following draft was recommended by the Study Committee on the Review of Criminal Penalties to the Joint Legislative Council for introduction in the 2015-16 Session of the Legislature.

### SPECIAL COMMITTEE VOTE

The study committee voted by a February 13, 2014 mail ballot, to recommend the following draft to the Joint Legislative Council for introduction in the 2015-16 Session of the Legislature. The vote on the draft was as follows:

- LRB-1635/1, relating to classifying misdemeanors, repealing or modifying obsolete misdemeanors, and changing procedure and discovery in certain civil actions, passed by a vote of Ayes, 13 (Reps. Hutton, Neylon, Riemer, and Spiros; Sen. Risser; and Public Members Bailey, Belzer, Horne, Karofsky, Kempinen, Reddy, Tobin, and Zuidmulder); Noes, 0; and Not Voting, 2 (Rep. Barnes; and Public Member Gerol).

### JOINT LEGISLATIVE COUNCIL VOTE

At its March 18, 2015 meeting, the Joint Legislative Council voted as follows on the recommendation of the Study Committee:

*Rep. Ballweg moved, seconded by Sen. Risser, that LRB-1635/1, be introduced by the Joint Legislative Council. The motion passed on a roll call vote as follows: Ayes, 14 (Sens. Lazich, Fitzgerald, Gudex, Moulton, Risser, Shilling, and Wanggaard; and Reps. Ballweg, August, Barca, Knodl, Mason, Murtha, and Shankland); Noes, 0; and Excused, 8 (Sens. Darling, Miller, Petrowski and Taylor; and Reps. Nygren, Steineke, Taylor, and Vos).*

*[Rep. Vos indicated that had he been present he would have voted "aye".]*



## JOINT LEGISLATIVE COUNCIL

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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

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|--|---|
| <p><b>Chair Rob Hutton</b>, Representative<br/>17785 Marseille Dr.<br/>Brookfield, WI 53045</p> <p><b>Edward Bailey</b>, Inspector<br/>Milwaukee County Sheriff's Office<br/>821 West State St.<br/>Milwaukee, WI 53233</p> <p><b>Keith Belzer</b>, Attorney<br/>Devanie Belzer &amp; Schroeder, S.C.<br/>300 N. 2nd St., Suite 200<br/>La Crosse, WI 54601</p> <p><b>Scott Horne</b>, Circuit Court Judge<br/>LaCrosse County, Branch 4<br/>333 Vine St.<br/>La Crosse, WI 54601</p> <p><b>Ben Kempinen</b>, Clinical Professor<br/>University of Wisconsin Law School<br/>572 Gately Terrace<br/>Madison, WI 53711</p> <p><b>David Reddy</b>, Circuit Court Judge<br/>Walworth County, Branch 4<br/>P.O. Box 1001<br/>Elkhorn, WI 53121</p> <p><b>John Spiros</b>, Representative<br/>1406 E. Fillmore<br/>Marshfield, WI 54449</p> <p><b>Donald Zuidmulder</b>, Circuit Court Judge<br/>Brown County<br/>P.O. Box 23600<br/>Green Bay, WI 54305</p> | <p><b>Vice-Chair Fred Risser</b>, Senator<br/>100 Wisconsin Ave., Unit 501<br/>Madison, WI 53703</p> <p><b>Mandela Barnes</b>, Representative<br/>4800 N. Port Washington Rd., Unit 205<br/>Milwaukee, WI 53217</p> <p><b>Adam Gerol</b>, District Attorney<br/>Ozaukee County Justice Center<br/>1201 South Spring St., P.O. Box 994<br/>Port Washington, WI 53074</p> <p><b>Jill Karofsky</b>, Executive Director<br/>Department of Justice<br/>17 W. Main St.<br/>Madison, WI 53703</p> <p><b>Adam Neylon</b>, Representative<br/>294 Meadowcreek Ct. #4<br/>Pewaukee, WI 53072</p> <p><b>Daniel Riemer</b>, Representative<br/>3053 S. 39th St.<br/>Milwaukee, WI 53215</p> <p><b>Michael Tobin</b>, Deputy State Public Defender<br/>Wisconsin State Public Defenders Office<br/>315 N. Henry St., 2nd Floor<br/>Madison, WI 53707</p> |

STUDY ASSIGNMENT: The Study Committee is directed to review the penalties for misdemeanor and low-level felony offenses. The committee shall: determine whether current misdemeanor or low-level felony penalties are appropriate; whether any crimes should be classified; and whether any offenses are outdated or should be decriminalized.

15 MEMBERS: 5 Representatives; 1 Senator; and 9 Public Members.

LEGISLATIVE COUNCIL STAFF: David Moore and Michael Queensland, Staff Attorneys; and Kelly Mautz, Support Staff.





## COMMITTEE MATERIALS LIST

*[Copies of documents are available at [www.legis.wisconsin.gov/lc](http://www.legis.wisconsin.gov/lc)]*

### **June 24, 2014 Meeting**

- Presentation by the Department of Corrections
- Presentation by Professor Thomas J. Hammer, Marquette University Law School
- Memo No. 1, Overview of Criminal Penalties in Wisconsin (June 17, 2014)
- LRB Brief 13-5, Statutory Misdemeanors in Wisconsin (April 2013)
- Felony Procedure Flowchart
- Misdemeanor Procedure Flowchart

### **August 6, 2014 Meeting**

- Memorandum, Subcommittee on Penalty Alignment and Organization, from Ben Kempinen, Public Member

### **October 10, 2014 Meeting**

- Memo No. 3, Materials for Upcoming Meeting (dated October 8, 2014)

### **October 17, 2014 Meeting**

- Memo No. 2, Classification of Unclassified Misdemeanors (September 19, 2014)
- Attachment to Memo No. 2
- Addendum to Attachment to Memo No. 2
- Memo No. 4, List of Fine-Only Misdemeanors (October 24, 2014)
- Fine-Only Misdemeanors, Attachment to Memo No. 4

### **November 12, 2014 Meeting**

- LRB-0473/P2, relating to repealing or modifying obsolete misdemeanors
- Memo No. 5, Recommendations of the Subcommittees on Obsolete Misdemeanors and Penalty Alignment and Organization
- Recommendations of the Subcommittee on Penalty Alignment and Organization
- Memorandum, Issues for Further Study (1), from Ben Kempinen, Public Member

## **December 18, 2014 Meeting**

- Memorandum, Issues for Further Study (2), from Ben Kempinen, Public Member
- Draft Recommendations on Misdemeanor Classifications
- Memorandum, Subcommittee on Penalty Alignment and Organization Request, from Alex Ignatowski, Department of Health Services
- Memo No. 6, Options for Legislation (December 11, 2014)
- Letter to Representative Rob Hutton, Chair, Study Committee on the Review of Criminal Penalties, from Nate Ristow, Legislative Advisor, Department of Revenue

## **Recommendation to the Joint Legislative Council March 18, 2015**

- Report to the Joint Legislative Council LCR 2015-08 Study Committee on the Review of Criminal Penalties (March 9, 2015)
- LRB-1635/1, relating to classifying misdemeanors, repealing or modifying obsolete misdemeanors, and changing procedure and discovery in certain civil forfeiture actions