

Testimony of Department of Corrections Secretary Gary Hamblin
Senate Committee on Labor, Public Safety & Urban Affairs
Assembly Committee on Criminal Justice & Corrections
May 5, 2011

Good morning Chairperson Wanggaard, Chairperson Bies, and members of the Committees. As Secretary of the Wisconsin Department of Corrections, I appreciate the opportunity to come here today to testify in support of Senate Bill 57 and Assembly Bill 86.

Recently, for the first time in the history of the Department, the number of adult inmates in our institutions has begun to go down. The decrease has been relatively small and has not been sustained for a long period of time. However, we are confident that with the tools the Governor has given us in his proposed budget we can continue to work with our community criminal justice partners to further reduce repeat crime and lower the number of inmates returning to prison. By doing that, we can reduce the number of new crime victims while holding down costs.

Our hope is that the current downward trend in the prison population continues. We are projecting a conservative monthly decrease of point one six percent (.16%) in male inmates and a point zero five percent (.05%) drop in female inmates.

We do not yet know the exact reasons for this downward trend in the prison population. An aging population and better local programs may be playing a role. However, I believe a key factor in the trend is our continued focus on reentry. At Corrections, reentry is the ongoing emphasis to help offenders prepare themselves to be successful after release back into their communities -- and 97% of our population does get released.

Under the previous biennial budget, a set of complicated sentencing reforms in 2009 Wisconsin Act 28 was passed. The goal of these reforms was to save money by releasing offenders back into the community before the completion of their prison sentences. But, with only 526 offenders released under the reforms, this failed experiment has produced little or no savings and has been confusing to crime victims and the public. By restoring the transparency in Truth in Sentencing, these companion bills put public safety first and move the decision to release an offender from a third-party back to the sentencing court -- where it belongs.

The Department has had the opportunity to thoroughly analyze the components of each of the bills before you today. While we support the legislation, we respectfully submit some technical adjustments for your consideration. We have discussed our proposed changes with the authors of the bills, and believe they would bring the bills into better alignment with the original intent of Truth-in-Sentencing.

Allow me to outline each of our suggestions now, starting with the Earned Release and Challenge Incarceration Programs.

Earned Release and Challenge Incarceration Programs

Under the sentencing reforms passed in 2009 Wisconsin Act 28, the Department is allowed up to six working days to release an inmate who completes the Earned Release Program (ERP) or Challenge

Incarceration Program (CIP) after receipt of a court order modifying the inmate's bifurcated sentence. AB 86 and SB 57 repeal would repeal that.

We recommend that the language giving the Department six working days to prepare for an ERP or CIP inmate's release be maintained for the following reasons:

- Unlike other types of general population inmate releases, we do not know the actual date of a CIP/ERP inmate release because the court has 30 days to mail or fax the amended judgment of conviction.
- Pre-Act 28 law requires that after receipt of the amended judgment of conviction, the Department had to release the inmate "as soon as possible without delay", a phrase which has been interpreted to mean within two days.
- Allowing six working days gives the Department time to better prepare the inmate for release into the community. That includes making the necessary arrangements for housing, transportation, electronic monitoring, a release account, and coordinating the release with the agent or law enforcement officials.

Risk Reduction Sentence (RRS)

The next recommendation involves the Act 28 reform called the Risk Reduction Sentence or RRS.

Under current Act 28 language, DOC is the releasing authority for inmates with a RRS and modifies the inmate's sentence to reduce the amount of confinement time remaining at the time of release. AB 86 and SB 57 maintain this language for approximately 1,400 inmates who receive a RRS sentence prior to the effective date of the bills' passage. We recommend changing the language so the sentencing court becomes the releasing authority.

We also suggest the release process follows that of an ERP or CIP inmate. In those cases, the DOC provides notice to the sentencing court that the inmate has met the program requirements and then the court modifies the inmate's sentence without a hearing.

Like our recommendation for ERP and CIP releases, we also request language that would allow the Department six working days to properly prepare the inmate for release from prison.

Overall, this change in the RRS language is consistent with other proposed changes in the bills that take the decision to release an inmate away from Corrections or the Earned Release Review Commission and place it back with the courts.

Positive Adjustment Time – Retroactive Time Earned

Another requested change involves the Act 28 reform called Positive Adjustment Time or PAT. AB 86 and SB 57 repeal PAT, but allow inmates who may have earned PAT retroactively to petition the sentencing court for a sentence adjustment based on the time earned. The current proposed language requires the Department to "determine" if an inmate has earned PAT during their period of confinement.

This involves staff completing lengthy and complicated calculations, determinations and assessments and supplying the documentation to the inmate before he or she can petition the court.

We recommend a change to the proposed language to help streamline that case-determination process, allowing the inmate to more readily petition the sentencing court for possible earned release. This recommendation uses the process intended under Truth in Sentencing 1 and 2 and streamlines sentence calculations. We have suggested language to accomplish this technical change and would be happy to share that with you.

Early Discharge from Probation

Finally, AB 86 and SB 57 both repeal early discharge from probation. Persons would be required to serve their entire term of probation. We recommend that some capacity be maintained to allow the court to early discharge persons from probation and that minimal criteria be added in order to be eligible for early discharge. The recommended criteria would require that:

- All court ordered conditions and DOC rules of supervision have been met;
- The offender has fulfilled all financial obligations to the victim or victims, the court, Corrections and;
- Any enrolled victim be notified and have an opportunity to provide direct input to the sentencing court.

We believe if an offender has complied with all conditions of supervision, fulfilled all financial obligations and has served a minimum amount of supervision that an early discharge can be an incentive to reinforce supervision compliance. It would also allow the Department to use agent time more efficiently by focusing our resources on those who pose the greatest risk to the community.

Under this recommendation, the Department may petition the sentencing court to modify an offender's period of probation and discharge the person from probation if he or she has completed at least 50 percent of his or her period of probation *and* has met the required criteria.

As is current Department policy, victims enrolled with our Office of Victim Programs and Services will be notified of the offender's change in status should the sentencing court approve the early discharge request.

In closing, I believe the proposed legislation and recommendations I have just outlined will allow the Department of Corrections to continue to execute its key mission of public safety, and do it efficiently. Wisconsin residents expect their government will do everything in can to protect them and reduce crime. They also expect us to be careful about spending their hard-earned tax dollars. I believe we can accomplish those goals if these bills with modifications are passed.

Thank you for giving me this time today and I will do my best now to answer any questions you might have.