

CRIMINAL JUSTICE COORDINATING COUNCIL

January 21, 2010

Call to Order. Chair Deupree called the meeting of the Criminal Justice Coordinating Council to order at 4:00 P.M. in the Courthouse Conference Center on the second floor of the Rock County Courthouse-East.

Committee Members Present: Neil Deupree, Supervisor Sandra Kraft, Regina Dunkin, Eric Nelson, Ruth Bettin, Captain Russ Steeber (for Sheriff Robert Spoden), Judge James Daley, Charmian Klyve, Art Thurmer, Chief David Moore, Ed Pearson.

Committee Members Absent: Supervisor Marv Wopat, David O'Leary, Lorenzo Henderson, Jose Carrillo, Jan Devore, Rich Gruber.

Staff Members Present: Elizabeth Pohlman McQuillen, Criminal Justice Planner/Analyst; Josh Smith, Assistant to the County Administrator; Jason Witt, Human Services Deputy Director; Ryan Trautsch, Juvenile Probation; Jeremy Brown, Juvenile Probation; Ariel Barak, Human Services Program Analyst.

Others Present: Supervisor Robert Fizzell; Lynda Owens; Tom Gubbin; Kay Deupree, League of Women Voters; Effie Garrett; Janna Janis, Rock Valley Community Programs.

Approval of Agenda. Ms. Bettin moved approval of the agenda as presented, second by Ms. Dunkin. ADOPTED.

Approval of Minutes of December 17, 2009. Captain Steeber moved approval of the minutes of December 17, 2009, second by Judge Daley. ADOPTED.

Election of 2010 CJCC Chair and Vice Chair. Judge Daley nominated Mr. Deupree for Chair and Supervisor Wopat for Vice Chair, second by Captain Steeber. ADOPTED.

Juvenile Justice Report Information – Human Services. Ms. Klyve introduced Mr. Witt, Acting Juvenile Justice Supervisor, Ryan Trautsch and Jeremy Brown, Supervisors of the Beloit and Janesville offices.

Chair Deupree asked how things are progressing since the report? Mr. Witt handed out two reports, *Summary of Recommendations Made in Report* and *Overview of Possible Process to Begin to Evaluate Report Recommendations* (attached), saying they are early in the process and the Board consensus was to make sure the recommendations are analyzed in a competent manner. The summary of the 34 recommendations was divided into 13 subject areas. They are working on developing a vision and values on which these will be based, and the mechanics of the partners and stakeholders so they can cooperatively work together. He said he will have more information for a future meeting.

Judge Daley asked what the timeline is? Mr. Witt replied this is their next step, which they plan to have done within the next few weeks. Judge Daley asked what the end date is, with Mr. Witt replying that has not been decided yet but, hopefully, by the end of the year. Judge Daley said the roles and responsibilities need to be set fairly soon. Mr. Witt said there have been

work groups dealing with these issues. They have also started on a Policies and Procedures Manual, adding that about 70% are pretty straight forward.

Mr. Nelson asked what the biggest obstacle has been? Mr. Witt said that is hard to say, but probably that management failed to plan for the cultural change. Mr. Nelson asked how the probation staff has reacted? Mr. Trautsch said some knew something was needed. He feels this is a positive decision. Judge Daley said he hopes they plan to continue the education process so everyone is on the same page. Mr. Trautsch agreed. Mr. Brown said he feels a lot of good has come out of this, that dialogue has been open and communication seems to be flowing.

Ms. Dunkin asked what was now being done to provide service for the kids? Mr. Witt said the YASI screening is helping with determining/evaluating the risks. They are then able to identify what is driving it/them, and will hopefully show where there are gaps. Mr. Brown added it also points out the strengths of the kids and their families.

Mr. Pearson said the evaluation forced everyone to reconnect and become a team. It also forced eye-to-eye communication. Ms. Klyve said it has given them a road map. There may be a few bumps along the way but, hopefully, they can all work through them. Mr. Witt added he feels they have become a happier "family", but it will take time to rebuild trust. Mr. Nelson said he appreciates all of their work on this. Judge Daley added this is the first step for any system, to admit problems exist.

New OWI Legislation Discussion. Ms. Pohlman McQuillen had two handouts, 4th District Second Offense and Third Offense and Legislative Bulletin 09-13 2009 Wisconsin Act 100, Relating to Operating While Intoxicated (attached) and went over them. She added the different CJCCs across the state have been discussing the change and impacts of the new OWI legislation. Most of the provisions won't start until July 1, 2010, but the Safe Streets option could be initiated at any time.

Mr. Nelson said if the fees cannot be paid, this will impact the jail population. Judge Daley added this impacts the poor more as they'll be the ones spending time in jail. Chair Deupree said the law changes seem to increase fees and assessments, etc., not to pay for court costs. Judge Daley said this is because they do not want us to use the courts to offset budgets. Ms. Dunkin asked what the fees are used for? Judge Daley said he did not know.

Mr. Thurmer said we need to do something in Wisconsin as OWIs are out of control, but he agreed this is not the best way to go. He said one of the stopgaps was to attend rehabilitation before being discharged from probation, now it's 50% of probation served before rehabilitation. This will increase our numbers considerably and will be difficult and costly. Money is getting lost in the General Fund. Judge Daley added the surcharges have been cut to fund the county programs.

Chief Moore said he feels offenders retain their anonymity. There should be public disclosure so people know who they are and not serve them alcoholic beverages. He suggested a map based on 4th time offenders where people can see who they are, where they live, their status, what car they drive and a picture of them, similar to the sex offenders registry. Captain Steeber asked what the cost of this registry would be and who would supervise it and do the updates? He

added he feels it is a good idea though. Chair Deupree asked what this Committee could do, with Chief Moore replying the Committee could go to the legislators.

Mr. Thurmer said the problem with the system now is offenders are put in prison and not given treatment until the end of their sentence. After a year, the offender doesn't feel he has a problem anymore so the treatment does not work. His idea is if they are sent to prison after 4 OWIs, they should get treatment right away and aftercare right before they are released. He added the in-car sobriety device is one of the best ways to keep them sober. Probation is only for a short time. Ms. Dunkin said it is too bad they cannot put this on a billboard to show this could happen to you if you drive drunk. Captain Steeber said it is such a chronic disease they usually don't know they are sick.

Mr. Nelson asked if the system could force them into treatment? Ms. Pohlman McQuillen said she did not have any information yet on the cost of treatment should Rock County decide to use the Safe Streets option. She added several CJCC Coordinators are getting together on Tuesday and the new OWI legislation is on their agenda.

Chair Deupree said they will bring more information about the Safe Streets program back when they get it. He said he will keep Chief Moore's suggestion as he feels it has merit. Chief Moore suggested doing it on a local level, to get a pilot program started here. Judge Daley said he did not see any problems as long as open records information was used. Mr. Thurmer agreed they cannot remain anonymous. A problem he sees on the other side is it lends to discriminate. Ms. Bettin said a lot of work has been done to try treatment and then we get a piece of legislature to create more need and take funding away. This creates a vortex.

Justice and Mental Health Collaboration Grant Authorization & General Grant Update. Ms. Pohlman McQuillen said it is grant season and this grant will be coming out again. There is now some local data available to us through the Sheriff's Office for this grant. There are three categories within this grant and the past two years we have applied for a planning grant. She asked if the Committee was interested in her working on applying for a grant and which one—recommending the planning grant again so there can be a determination of need and possible options done? She added the implementation and enhancement grants are larger, but she did not think Rock County was necessarily ready to apply for these categories yet. She asked where they would like the focus to be?

Judge Daley said they need to know where they can make the most impact to the system. Mr. Thurmer said they need to keep in mind the grant money can go away. He said his vote is yes. Chair Deupree said it looks like there is a consensus from the Committee to apply for a grant and he asked Ms. Pohlman McQuillen to apply for the grant when it becomes available.

Ms. Pohlman McQuillen said she is in the process of doing a grant update for the drug court enhancement grant. She added there is a lot of money out there, especially with regard to the Second Chance Act—for reentry—if you are in a position to go for them. These grants require matching funds and in-kind match can only be used for 25% of the match, with the rest coming from hard cash. If the Committee would like to go for the larger grants in the future, we need to start positioning ourselves now.

Establishment of Working Groups and CJCC Priorities – Means of Evaluation

Chair Deupree said they will do these two items together. He handed out note cards and asked everyone to write on one side of the card Substance Abuse, Mental Health, and Re-Entry. Then to list one or two people whom they feel could make a contribution to a working group in each of these three areas. Then on the other side to list what would indicate a success in dealing with each of these three areas. He then collected the cards.

Future Meeting Dates and Locations. The Committee said the 3rd Thursday at 4 P.M. worked well for them. Chair Deupree said the next two meetings will be February 18 and March 18, 2010, at 4:00 P.M., in the Courthouse Conference Center.

Citizen Participation and Announcements. Judge Daley said he received a communication from Chief Justice Abrahamson that he has been appointed to a state committee looking at mental health in the court system.

Ms. Dunkin thanked the Judge for everything he does.

Ms. Pohlman McQuillen said she will be meeting with the CJCC coordinators, hopefully on a quarterly basis. She said the first meeting for the 2010 Resources Fair will be on February 16 and this year the event will be held in Beloit.

Ms. Pohlman McQuillen said the County is updating its web site. She is working on a CJCC area and there will also be a section for diversion courts on the site as well.

Ms. Owens asked if Rock County has the in-car steering devices put in vehicles for alcohol offences? Judge Daley said they are installed after the 1st or 2nd offense.

Ms. Janis told Chief Moore some do not feel sex offenders can be rehabilitated. As for an alcohol registry, she feels it would be a good idea to drop them from the list after 5 years of sobriety. Chief Moore agreed there would need to be a sunset.

Mrs. Deupree said the League of Women Voters appreciates what the Committee has done in juvenile justice and also the anti-racial training.

Adjournment. Chair Deupree adjourned the meeting at 5:40 P.M. ADOPTED.

Respectfully submitted,

Marilyn Bondehagen
Secretary II

NOT OFFICIAL UNTIL APPROVED BY COMMITTEE.



OVERVIEW OF POSSIBLE PROCESS TO BEGIN TO EVALUATE REPORT RECOMMENDATIONS

SUMMARY & PRE-ANALYSIS

Summarize all of the report's recommendations by specific and broad subject areas.



ACTION PLANNING

Develop a prioritized comprehensive "action plan" that details how and under what timeframe recommendations will be discussed, analyzed and the relating issues decided. The plan could be specific as to who participates at each step, when each step will start/ends and what information (including what research) is used related to each recommendation.

The Human Services Board may consider selecting a consultant to assist in some of the technical and procedural work and to provide expertise in issue areas covered by the action plan.



IMPLEMENTATION

Meetings, discussions and analysis of the report's recommendations would take place as outlined in the action plan. The process would be overseen by the Human Services Board, which would regularly discuss and act on various decision points as appropriate. Decision options would be presented and evaluated in the context of best practices and what has been shown to work with youthful offenders.

DRAFT



SUMMARY OF RECOMMENDATIONS MADE IN REPORT

A. FUNDAMENTALS / ORGANIZATIONAL

1 Establish a values and vision base

Considerable effort be made to develop and articulate the values and vision on which the remainder of the juvenile justice system should be based.

2 Create a meeting mechanism for system partners

Some mechanism be created so that mid-level managers from various systems can meet regularly.

3 Adopt a Leadership Model of Management

The organization moves toward a leadership model of management.

4 Re-establish appropriate management / union roles

Management and the union need to re-establish the appropriate roles within the organization.

B. COMMITTED PROJECTS ALREADY IN PROGRESS

1 Continue developing and implementing a Detention Screening Instrument

- a. Develop, in conjunction with relevant community stakeholders, and utilize a Detention Screening Instrument based upon JDAI examples but modified to be consistent with Wisconsin Statutes.
 - b. Conduct substantive discussions among system partners as to what the purpose of placement in secure detention at the time of law enforcement referral is.
 - c. *Assign the responsibility for screening referrals for detention to the Juvenile Detention Center.
 - d. *Assign specific supervisory responsibility to review all custody intake decisions to one individual with authority to modify intake decisions as may be appropriate prior to court review.
 - e. Develop (and require compliance with) more rigorous requirements for documenting detention intake decisions.
 - f. Build upon the current data collection/analysis capability of the RockStat system to routinely provide for on-going analysis and discussion of how detention is to be used.
- #### 2 Continue developing and implementing a Sanctions Grid
- a. Continue forward, as expeditiously as possible, with the work to develop and implement a "sanctions grid."
 - b. Affirm existing expectations about what other efforts probation officers should make prior to requesting sanctions.
 - c. Develop and implement clear expectations for probation officer work to be done if/when one of their juveniles is placed in secure detention.
 - d. Establish as clear as possible court expectations for what kinds of cases should definitely be brought back to court when violations of supervision occur.
 - e. Utilize the strengths of the data system to capture information related to the more-informed sanctions process as part of an on-going quality improvement process.
- #### 3 Continue with implementation of YASI
- a. Continue down the path of implementation of YASI as a routine part of the case assessment and planning process
 - b. Ensure that ongoing training, evaluation, and feedback is provided to probation officers using YASI as part of their casework.
 - c. Integrate risk and needs assessment information generated by YASI into the state system both to help direct individual case planning but also system planning as well.

(Continued on Reverse Side)

C. OTHER PRACTICE / PROGRAM RECOMMENDATIONS

1 Provide clear direction for all individuals in the organization and invest in their professional development.

- a. Create and implement policies and procedures to govern the practices in the organization.
- b. Create and implement a staff development/training component for all Division employees.
- c. Create and implement a structured, purposeful orientation and training program for new employees.
- d. Provide consistent performance appraisals for employees.

2 Review and place a higher priority on Juvenile Detention Center operations

- a. The quality of life for residents confined within the detention facility should be a higher priority for the Department, Division and the Juvenile Detention Center.
- b. Review issues regarding the role, function and utilization of the Juvenile Detention Center.
- c. If positions were eliminated due to budget concerns, then the commensurate number of living units should be closed in order to provide direct, continuous supervision and interaction by staff.
- d. The County Should consider using the current detention portion of the facility for adults, the current non-secure portion for secure custody, and contracting with private providers for shelter care.

3 Develop and implement court intake screening guidelines

- a. The Court should provide leadership for a process to develop intake guidelines.
- b. Review or develop the process Rock County should use in screening referrals.
- c. Intake guidelines established by the court, and subsequent procedures developed by the department, need to clearly incorporate provisions to meet both the letter and the spirit of the victim's rights components of the juvenile code.

4 Develop policies related to Department court recommendations & contacts with other parties

- a. Maintain an expectation that probation officers present the department recommendation and rationale in court in those situations where the supervisor or the supervisory review team are required to be involved.
- b. Policies and procedures related to this should be clearly written and shared with other system parties.
- c. The Department should promulgate policies/procedures related to contact between probation officers and other parties in the process (i.e., pd or ADA).

5 Devote Sufficient Administrative Time to Grants & Be Transparent

The Department should continue to seek grants when helpful to achieving the overall mission of the County, but (1) sufficient administrative time needs to be allocated to properly oversee the grant, and (2) details of the grant should be as transparent as possible.

6 Provide Proper Justification and Transparency for Out of Home

Placement Decisions

The process that has been developed for a supervisory review team is a reasonable one. However, that team must be able to properly justify their recommendations and be transparent about those reasons.

4TH DISTRICT: SECOND OFFENSE

(for violations of 346.63(1)(am) or (b), penalty - 346.65(2)(b))

April 2, 2008

JAIL: 5 DAYS - 6 MONTHS (minimum 48 consec. Hours in jail)

FINE: \$350 - \$1100

REVOCAION: 12 - 18 MONTHS (s.343.30(1q)(b)3.)

Note: Ign. Interlock (343.301(1)(a)2) or immobilization (343.301(2)(a)2) is discretionary unless there is a 2nd Conviction within a 5 yr. Period.

DRIVING FACTORS

BAC LEVEL	Minimum Driving - No Accident	Aggravated Driving - Acct/ Injury; Bad Driving Rec.
.15 & Below Restricted Controlled Substance	Fine \$350.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$91.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$904.00 5 days jail - 12 mon. revocation	Fine \$400.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$104.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$967.00 10 days jail - 14 mon. revocation
	SSTOP 5 days Jail - 12 mon. revocation	SSTOP 5 days imp. & 5 days stay - 12 mon. rev
.16 to .22	Fine \$400.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$104.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$967.00 20 days jail - 14 mon. revocation	Fine \$500.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$130.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$1,093.00 30 days jail - 16 mon. revocation
	SSTOP 7 days imp & 13 days stay - 12 mon. rev	SSTOP 9 days imp & 21 days stay - 12 mon. rev
Refusal .23 & above	Fine \$500.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$130.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$1,093.00 30 days jail - 16 mon. revocation	Fine \$600.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$156.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$1,219.00 40 days jail - 18 mon. revocation
	SSTOP 9 days imp & 21 days stay - 12 mon. rev	SSTOP 12 days imp & 28 days stay - 12 mon. rev

FACTORS: Ability to pay, Def Conduct since offense, Includg. Assessment and Dr. Plan bef. Conviction, consequences, cooperation, pros Recomdatn.

SSTOP = Safe Streets Treatment Option Program

With successful completion of SSTOP, the stay on jail will not be lifted.

4TH DISTRICT: THIRD OFFENSE

(for violations of 346.63(1)(am) or (b), penalty - 346.65(2)(c))

April 2, 2008

JAIL: 30 DAYS - 12 MONTHS (minimum 48 consec. Hours in jail)
FINE: \$600 - \$2000
REVOCAATION: 24 - 36 MONTHS (s 343.30(1q)(b)4)

Note: Ign. Interlock (343.301(1)(a)2) or immobilization (343.301(2)(a)2) is mandatory if there are 2 or more convictions within a 5 yr. Period, and vehicle seizure/forfeiture is discretionary (346.65(6)(a)1).

DRIVING FACTORS

BAC LEVEL	Minimum Driving - No Accident	Aggravated Driving - Acdt / Injury; Bad Driving Rec
.15 & Below Restricted Controlled Substance	Fine \$600.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$156.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$1,219.00	Fine \$750.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$195.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$1,408.00
	30 days jail - 24 mon. revocation <hr/> SSTOP 10 days imp & 20 days stay - 24 mon. rev	45 days jail - 28 mon. revocation <hr/> SSTOP 14 days imp & 31 days stay - 24 mon. rev
.16 to .22 Enhancer 17-.199 = fine X 2 20-.249 = fine X 3	Fine \$750.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$195.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$1,408.00	Fine \$900.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$234.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$1,597.00
	60 days jail - 28 mon. revocation <hr/> SSTOP 18 days imp & 42 days stay - 24 mon. rev	75 days jail - 32 mon. revocation <hr/> SSTOP 20 days imp & 55 days stay - 24 mon. rev
Refusal .23 & above Enhancer 20- 249 = fine X 3 25 & over = fine X 4	Fine \$900.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$234.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.00 \$1,597.00	Fine \$1,050.00 Driver surcharge \$365.00 Costs \$20.00 Penalty surcharge \$273.00 Crime Lab surcharge \$8.00 Victim/Witness surcharge A \$40.00 Victim/Witness surcharge B \$20.00 Jail surcharge \$10.50 \$1,786.50
	90 days jail - 32 mon. revocation <hr/> SSTOP 23 days imp & 67 days stay - 24 mon. rev	120 days jail - 36 mon. revocation <hr/> SSTOP 30 days imp & 90 days stay - 24 mon. rev

FACTORS: Ability to pay, Def. Conduct since offense, incldg. Assessment and Dr. Plan bef Conviction, consequences, cooperation, pros. Recomdatn

SSTOP = Safe Streets Treatment Option Program
 With successful completion of **SSTOP**, the stay on jail will not be lifted.



Shirley S. Abrahamson
Chief Justice

Supreme Court of Wisconsin

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A. John Voelker
Director of State
Courts

LEGISLATIVE BULLETIN 09-13

DATE: December 28, 2009

TO: Circuit Court Judges
Reserve Judges
Municipal Court Judges
Circuit Court Commissioners
Clerks of Circuit Court

FROM: A. John Voelker
Director of State Courts

RE: 2009 Wisconsin Act 100, Relating to Operating While Intoxicated

The Governor signed the recently-passed drunk driving bill on December 22, 2009. **Most of the new act's provisions, including all changes to penalties and fees, take effect on July 1, 2010.** The provision allowing counties to create a program similar to Winnebago County's Safe Streets program went into effect on December 24, 2009, the day after publication. Here is a link to the new act:

2009 Wisconsin Act 100, Relating to Operating While Intoxicated
<http://www.legis.state.wi.us/2009/data/acts/09Act100.pdf>

The following is a brief description of the provisions contained in Act 100:

- increases the penalties to a Class H felony and a minimum imprisonment of 6 months for 4th offense OWI within a five-year period; to a misdemeanor for first-time offenders if a child under the age of 16 was present in the vehicle; and to a Class H felony for the second or higher OWI offense if there is also injury to another person. Minimum initial confinement times are also increased for 7th and higher OWI offenses.
- allows a trial court to place a person on probation for 2nd or 3rd offense.
- applies all surcharges and assessments to a person convicted of a first offense OWI who has a blood alcohol concentration between 0.08 and 0.099.

- imposes stricter ignition interlock device requirements, including a mandatory one-year order if a first offender has an alcohol concentration of 0.15 or more or if a person commits a second offense; also creates a \$50 ignition interlock surcharge.
- authorizes any county to institute a program similar to Winnebago County's that allows lower penalties for those agreeing to a treatment regimen.
- eliminates the court's discretion to delay the execution of a sentence for persons convicted of 3rd or higher offenses; also prevents Huber Law participation unless the person has an IID installed.
- extends the period of license revocation by the number of days that the person is required to spend in jail or in prison.
- revises the eligibility of a person with two or more offenses to an occupational license by decreasing the waiting period to 45 days and increasing the current \$50 reinstatement fee by an additional \$40.
- funds the additional costs that will result for the criminal justice and corrections systems, including costs for the court system, by increasing the clerks' fee in all criminal actions from \$20 to \$163.

Attached is a Legislative Council table dated December 16, 2009 comparing the provisions of current law with the provisions of Act 100. (The Senate version of 2009 Senate Bill 66 as amended by Assembly Amendment 1, referred to in the table, is what passed both houses of the Legislature on December 16, 2009.)

The Uniform State Traffic Bond Book, fee schedules, necessary forms and various procedures will be updated as the July 1, 2010 effective date approaches.

If you have questions regarding these changes, please contact Nancy Rottier at nancy.rottier@wicourts.gov or at (608) 267-9733.

AJV/NMR

cc: District Court Administrators

Attachment

**COMPARISON OF PROVISIONS IN CURRENT LAW WITH PROVISIONS IN SENATE
VERSION OF 2009 SENATE BILL 66 AS AMENDED BY ASSEMBLY AMENDMENT 1
TO THE SENATE VERSION**

Prepared by Don Salm, Senior Staff Attorney, Legislative Council

December 16, 2009

Fines, Jail Terms, and License Sanctions

	Current Law	Senate Version of Senate Bill 66, as Amended by Assembly Amendment 1 to the Senate Version
First Offense OWI (with minor passenger)	\$300 to \$600 forfeiture (civil offense—forfeiture is doubled if minor passenger).	\$350 to \$1,100 fine; 5 days to 6 months term of imprisonment (criminal offense).
Third Offense OWI	\$600 to \$2,000 fine; 30 days to 1 year term of imprisonment.	Increase minimum term of imprisonment to 45 days.
Fourth Offense OWI	\$600 to \$2,000 fine; 60 days to 1 year term of imprisonment (misdemeanor offense).	For offenders with a prior offense within previous 5 years: \$600 to \$10,000 fine; 6 months to 6 years term of imprisonment (Class H felony--3 years prison and 3 years of extended supervision). For all other 4 th offense offenders: no change to current law.
OWI causing injury (basic OWI and commercial motor vehicle with BAC of 0.04 to 0.08)	\$300 to \$2,000 fine; 30 days to 1 year term of imprisonment (misdemeanor offense); fines and jail term doubled if there was a minor in the vehicle.	For persons with a prior OWI conviction(s): Up to \$2,000 fine; up to 6 years term of imprisonment (Class H felony); fines and prison term doubled if there was a minor in the vehicle. For other offenders (no prior offense): same as current law.
Absolute sobriety violation	Forfeiture of \$400.	For offenders where there was a minor in the vehicle: fine of \$400 (criminal misdemeanor). For other offenders: same as current law.
Revocation time periods	License revocation period generally begins on date person commits the OWI offense.	Period of license revocation begins on date of OWI offense and is extended by the number of days court sentences offender to jail or prison.
Occupational License Waiting Period	<u>2 OWI-related offenses</u> , a waiting period of 60 days; <u>3 or more OWI-related offenses</u> , 90 days; <u>2 or more OWI-related offenses within 5 years</u> , one year waiting period.	If 2 or more OWI-related offenses, waiting period of 45 days applicable to all.

Probation and General Sentencing Provisions

	Current Law	Senate Version of Senate Bill 66, as Amended by Assembly Amendment 1 to the Senate Version
Minimum confinement period for multiple OWI offenders	48-consecutive-hour period (for all criminal OWI offenses).	For 7 th , 8 th , and 9 th offense: 3 years. For 10 th offense: 4 years. All other offenders: no change to current law.
Probation for OWI offenders	Probation allowed for 4 th offense OWI, not less than 6 months nor more than 2 years; probation not allowed for 2 nd or 3 rd offense.	Probation allowed for 2 nd and 3 rd offense OWI, in addition to 4 th offense OWI Maximum probation for 4 th offense OWI increased to three years.
Pre-sentence release and stay of sentence execution for OWI offenders	Pre-sentence release and stay of execution (up to 60 days) allowed for OWI offenders.	Pre-sentence release and stay of execution prohibited for 3 rd and subsequent offense until after the minimum period of confinement is served. There are exceptions if court finds legal cause to delay the execution of sentence or if court places person on probation.
Alternative sentencing options	In Winnebago County, 2 nd and 3 rd OWI offenders who complete probationary period that includes alcohol and other drug treatment are eligible for alternative sentencing with reduced minimum and maximum terms.	Extends Winnebago sentencing <u>option</u> to any county with a program similar to the Winnebago program. Increases the minimum sentence for a 3 rd offense participant from 10 days to 14 days. Sentencing option available for 4 th OWI offenders, with a minimum sentence of 29 days for participants.
Department of Corrections: Probation, Supervision, Assessment and Treatment for 2 nd and 3 rd OWI Offenders		Requires the DOC to provide probation supervision, assessment, treatment, and other community treatment options for 2 nd and 3 rd OWI offenders with no waiting list.

Ignition Interlock Device (IID) Provisions

	Current Law	Senate Version of Senate Bill 66, as Amended by Assembly Amendment 1 to the Senate Version
General provisions	IID order allowed for 2 nd or subsequent OWI offense and required (unless seizure or immobilization ordered instead) for a 2 nd or subsequent offense committed within 5 years.	IID order mandatory for all repeat OWI offenses and for a first OWI offense with a blood alcohol level of 0.15 and above; seizure and immobilization options eliminated.
Time periods	IID restriction ordered for not less than one year nor more than maximum license revocation period for the offense; time period begins when ordered.	Operating privilege restriction shall: (1) be equal to the period of revocation for first OWI offenders; and (2) begins when first license is issued instead of when order is issued. Time period for vehicle installation order is eliminated. Judge may order vehicle installation immediately upon issuance of the order.
IID surcharge	No provision.	All OWI offenders for which IID ordered must pay a \$50 IID surcharge. Counties retain the \$50 surcharge; surcharge is placed after current law surcharges in priority of collection.
Provisions for low income offenders	All offenders liable for the full cost of installation and maintenance of the device.	Offenders with a household income at or below 150% of the poverty line pay 50% of the cost of installation and maintenance. DOT may not approve IID provider for business in the state if the provider does not agree to allow qualifying individuals to a payment structure equal to 50% of the full installation and maintenance cost for other offenders.
Occupational license provisions related to IIDs	No provision.	No occupational license may be issued to a person subject to an IID order unless the person submits proof that IID surcharge has been paid and that IID has been installed on every vehicle owned or registered in whole or in part by the offender. An exception is provided for a vehicle or vehicles excluded from the IID order by a judge for reasons of financial hardship.
Enforcement and penalty provisions	Forfeiture of \$150 to \$600 for removing, disconnecting, tampering with, or otherwise circumventing the operation of an IID.	Adds failure to install an IID, as ordered, as a violation; imposes criminal fine of \$150 to \$600, 6 months imprisonment, or both for violation; IID order period extended by 6 months for violation.
Prohibited alcohol concentration	0.08 prohibited alcohol concentration, 0.02 for person with three OWI offenses; no special provision for offenders subject to an IID order.	0.02 prohibited alcohol concentration for persons subject to an IID order.

	Current Law	Senate Version of Senate Bill 66, as Amended by Assembly Amendment 1 to the Senate Version
Huber Law—Proof of Compliance with IID	Huber Law allows person sentenced to county jail or confined in county jail as a sanction while the person is on extended supervision to leave jail for certain purposes (e.g., work, school, community service, treatment or counseling).	Requires OWI offender for whom judge approves Huber Law participation to submit, within 2 weeks of sentencing date, proof of compliance with order to install IID on his or her vehicles. If fail to submit proof, person may not be released under Huber Law.

Other Provisions

	Current Law	Senate Version of Senate Bill 66, as Amended by Assembly Amendment 1 to the Senate Version
Revocation time periods	License revocation period begins when ordered.	Period of license revocation is extended by the amount of the term of imprisonment.
Surcharges and other sanctions for OWI offenders with a blood alcohol level of between 0.08 and 0.10	Penalty surcharges, including OWI driver improvement surcharge are not levied for first-time OWI convictions if the offender had a blood alcohol concentration of between 0.08 and 0.10; no alcohol assessment required for such offenders.	Eliminate special surcharge and alcohol assessment exemptions for these offenders (the so-called "Loophole").
Criminal Processing Fee	Upon conviction, criminal offender pays \$20 processing fee to clerk of court. 50% retained by county, 50% to the general fund	Increases processing fee to \$163. County forwards 93.87% of fees it collects for deposit into general fund and retains 6.13% for use by county.
Additional Fee for Reinstatement of License	Person whose license is suspended or revoked must pay \$60 fee to reinstate license once period of suspension or revocation is over.	In addition to current \$60 reinstatement fee, person revoked for OWI must pay \$140 additional reinstatement fee (total of \$200). Funds from additional fee deposited in the general fund.
Appropriation for state costs		DOT: no provision. <u>Increased Appropriation:</u> district attorneys, Director of State Courts, DOC, Department of Justice, and Office of State Public Defender: Joint Committee on Finance supplemental appropriation increased by \$8.8 million in 2010-11; DOA required to submit request under s. 13.10 on behalf of the agencies, above, to allocate funding.
DOC Appropriation for Community Probation Supervision and Funding Monitoring Center and Enhanced Treatment		Creates an appropriation for DOC to provide community probation supervision, to staff and fund a monitoring center, and to fund enhanced community treatment for 2 nd and 3 rd OWI offenders. \$6,600,000 are appropriated for this purpose in FY 2010-11. Protects these funds from the lapse requirements under 2007 Wisconsin Act 20 and 2009 Wisconsin Act 2 (as affected by 2009 Wisconsin Act 28).
Effective Date		July 1, 2010.

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