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WISCONSIN LEGISLATIVE COUNCIL

REPORT NO. 16 TO THE 1993 LEGISLATURE

LEGISLATION ON WOMEN OFFENDERS IN THE CORRECTIONAL SYSTEM

1993 ASSEMBLY BILL 996, Relating to Participation of an Inmate-Parent in Certain Court Hearings Relating to His or Her Child, Permanency Planning for a Child Whose Parent is an Inmate, Reasonable Efforts Requirements Applicable to Inmate-Parents and Their Children, Imprisonment as a Factor in Involuntary Termination of Parental Rights Proceedings, Assessment of Needs of Primary Caretaker Inmate-Parents, Visitation and Other Communication Between an Inmate-Parent and His or Her Child and a Defendant's Parental Status as an Item of Consideration in a Presentence Investigation Report After Certain Criminal Convictions and Granting Rule-Making Authority

1993 ASSEMBLY BILL 997, Relating to Creating a Council on Women Offenders, Designating One or More Persons as Women Offenders Coordinators in the Department of Corrections, Long-Range Planning for Women Offenders and Making Appropriations

Legislative Council Staff
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WISCONSIN LEGISLATIVE COUNCIL
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PART I

KEY PROVISIONS OF LEGISLATION

A. 1993 ASSEMBLY BILL 996, RELATING TO PARTICIPATION OF AN INMATE-PARENT IN CERTAIN COURT HEARINGS RELATING TO HIS OR HER CHILD, PERMANENCY PLANNING FOR A CHILD WHOSE PARENT IS AN INMATE, REASONABLE EFFORTS REQUIREMENTS APPLICABLE TO INMATE-PARENTS AND THEIR CHILDREN, IMPRISONMENT AS A FACTOR IN INVOLUNTARY TERMINATION OF PARENTAL RIGHTS PROCEEDINGS, ASSESSMENT OF NEEDS OF PRIMARY CARETAKER INMATE-PARENTS, VISITATION AND OTHER COMMUNICATION BETWEEN AN INMATE-PARENT AND HIS OR HER CHILD AND A DEFENDANT'S PARENTAL STATUS AS AN ITEM OF CONSIDERATION IN A PRESENTENCE INVESTIGATION REPORT AFTER CERTAIN CRIMINAL CONVICTIONS AND GRANTING RULE-MAKING AUTHORITY

1993 Assembly Bill 996 proposes the following changes in state law:

1. The Bill provides that for certain significant hearings under the Children's Code [ch. 48, Stats.] regarding a child of an inmate, the court must ensure that the inmate-parent has an opportunity to participate in the hearing either by being summoned to personally appear at the hearing or through a court-arranged telephone conference at the time of the hearing.

2. The Bill creates specific provisions applicable to inmate-parents and their children in the preparation and review of permanency plans under the Children's Code. A permanency plan, which is directed at children in out-of-home placements, is a plan designed to ensure that a child is reunified with his or her family whenever possible, or that the child quickly attains a placement or home providing long-term stability.

3. The Bill provides that, with reference to abandonment as a grounds for involuntary termination of parental rights (TPR), time periods in the TPR law must not include any periods during which the parent was imprisoned and prevented from visiting with the child on a regular basis due to factors primarily caused by imprisonment. A similar provision is applied to that ground for TPR based on a child's continuing need for protection or services.

4. The Bill requires the Department of Corrections (DOC), during the assessment and evaluation process at the admitting correctional institution, to assess the current family situation of a "primary caretaker inmate-parent," as defined in the Bill, and include recommendations in any final report relating to the assessment to assist that parent in maintaining contact with his or her child.

5. The Bill creates various provisions to encourage visitation, telephone calls and other forms of communication between an inmate-parent and his or her child.

B. 1993 ASSEMBLY BILL 997, RELATING TO CREATING A COUNCIL ON WOMEN OFFENDERS, DESIGNATING ONE OR MORE PERSONS AS WOMEN OFFENDERS COORDINATORS IN THE DEPARTMENT OF CORRECTIONS, LONG-RANGE PLANNING FOR WOMEN OFFENDERS AND MAKING APPROPRIATIONS

1993 Assembly Bill 997 proposes the following changes in state law:

1. The Bill creates a Council on Women Offenders in the DOC to review the problems and needs of women offenders throughout the correctional system, advise the Secretary of Corrections on those problems and needs and recommend necessary program and policy changes, statutory and otherwise.

2. The Bill directs the DOC to designate one or more persons within the DOC as women offenders coordinator to develop and provide coordination for policies and programs in the DOC relating to women offenders and to provide staff support to the Council on Women Offenders created in this Bill.

3. The Bill creates a long-range state planning process for consideration of the service, programming and other needs, including culturally specific needs, of women offenders under the custody or supervision of the DOC.

PART II

COMMITTEE ACTIVITY

A. ASSIGNMENT

The Legislative Council established the Special Committee on Women Offenders in the Correctional System by a May 28, 1992 mail ballot. The Special Committee was directed to study the corrections system as it applies to women offenders, including a review of: (1) the demographics of women offenders, the nature of their offenses and the reasons for imprisonment of nonassaultive women offenders; (2) the availability of effective community-based corrections programs for women offenders; (3) the access of women offenders to intensive sanctions and other alternative corrections programs; (4) the extent to which women offenders are the full or primary caretakers of minor children and the need for a family visitation program; (5) issues related to special conditions of confinement of women offenders; and (6) the provision of training and employment opportunities for women offenders.

The membership of the Special Committee consisted of two Senators, six Representatives, 10 Public Members and two non-voting Technical Advisory Members. A list of the Legislative Council membership is included in Appendix 1; a list of the Committee membership is included in Appendix 2.

B. SUMMARY OF MEETINGS

During 1992 and 1993, the Special Committee held eight meetings on the following dates:

September 2, 1992	December 8, 1992
October 8, 1992	January 15, 1993
October 20, 1992	February 10, 1993
November 5, 1992	March 30, 1993

All but one of the meetings were held at the State Capitol in Madison; the October 20, 1992 meeting was held at the Robert E. Ellsworth Correctional Center, Union Grove.

At the September 2, 1992 meeting, the Special Committee heard testimony from Special Committee Member Mary Gilfus, Assistant Professor, School of Social Work and Women's Studies, University of Wisconsin (UW)-Madison. In her testimony, Professor Gilfus: (1) gave a portrait of female offenders based on national research which she has conducted; (2) provided an overview of corrections policies and programs for women offenders; (3) commented on issues relating to gender equity in corrections and on the risk and needs of women offenders; and (4) discussed the issue of how to design policies and programs that offer gender equity and help women move away from criminal patterns of behavior. Next, the Special Committee received testimony from Special Committee Member Kathleen Krenek, Policy Development Coordinator, Wisconsin Coalition Against

Domestic Violence, Madison, relating to ways in which male batterers exercise power and control over their spouses or partners, including their use of emotional as well as physical abuse. The Special Committee also heard testimony from Terri Landwehr, Administrator, Division of Adult Institutions, DOC, who gave an overview of female offenders under the jurisdiction of the DOC. She noted that Wisconsin has one of the best offender classification systems in the country because it is objective and it is not used in isolation. She discussed the use of a challenge incarceration program (i.e., "boot camp") for female offenders, the recidivism rate of female offenders and the 1988 Taycheedah Correctional Institution Consent Decree entered in the U.S. District Court for the Eastern District of Wisconsin.

The Special Committee then heard testimony from Janice Cummings, Regional Chief, Probation and Parole, Southeast Wisconsin, DOC, Waukesha, who reviewed statistical information on female offenders on probation and parole in Wisconsin and discussed the major need areas with reference to these female offenders. Finally, the Special Committee heard testimony from Ken Streit, Faculty Advisor, Legal Assistance to Institutionalized Persons (LAIP) Program, UW-Law School, who discussed: (1) the family backgrounds, prior records and current offenses of 10 anonymous female offenders who have received assistance from the LAIP Program; and (2) information, compiled by a group of LAIP students who reviewed DOC files, relating to females incarcerated in Wisconsin prisons for killing a spouse or significant other person. The Committee concluded its discussion by raising a number of key issues the Committee wished to focus on at future meetings.

At the October 8, 1992 meeting, the Special Committee received testimony from Karen Kinsey, Executive Director, ARC Community Services (ACS), Inc., Madison, a private nonprofit agency providing innovative, community-based services to women (and their children) who are at risk for criminal activity or substance abuse, or both, on a residential day treatment and outpatient basis. She described the experience that ACS has had with adult female offenders and the innovative programs that have been developed in response to the needs and requirements of these offenders in the criminal justice system. The Special Committee then heard from William Grosshans, Administrator, Division of Intensive Sanctions (DIS), DOC, who described the Intensive Sanctions Program (ISP), which was created to provide the courts with a third sentencing option for offenders, the other two being: (1) probation; or (2) imprisonment, fine, or both. He explained that the legislative intent of the ISP is that it be utilized as a sentence for certain felons who, in the past, would have received a sentence to state prison. He also commented on the Mother-Infant Program which has been placed in the DIS.

The Special Committee then heard from Ann McDiarmid, National Institute of Corrections (NIC), Washington, D.C., and Barbara Bloom, National Council on Crime and Delinquency, San Francisco, California. Ms. McDiarmid described the technical assistance, training and consulting programs and services the NIC has available relating to women offenders, noting that NIC currently has a project relating to intermediate sanctions for women offenders and that Wisconsin could apply for a grant under this project. Ms. Bloom noted that she has conducted two studies relating to women offenders, one entitled *Female Offenders in the Community: An Analysis of Innovative Strategies and Programs* and the other entitled *Why Punish the Children?*. She explained that although female offenders traditionally represent a small proportion of the total adult and juvenile

offender populations (5% to 10%), their presence in the nation's correctional population has been expanding at a rate that far exceeds that of male offenders. She described the factors which distinguish female offenders from male offenders, suggested some strategies for sound correctional policy regarding women offenders and provided a summary of considerations for jurisdictions considering programs specifically for women offenders. The Special Committee then had a lengthy discussion, which included Ms. McDiarmid, Ms. Bloom and key representatives from the DOC, regarding technical assistance for which Wisconsin could apply from the NIC.

At the October 20, 1992 meeting, the Special Committee toured the Robert E. Ellsworth Women's Correctional Center in Union Grove, and heard a presentation by Pat Ogren, Superintendent of that facility. Ms. Ogren set forth her "wish list" for changes in the system, including more literacy programs, less dependency on volunteers for critical programs, better understanding of women offenders by the DOC, more alcohol and other drug abuse (AODA) programs, more halfway houses and community housing options for women offenders, and a greater commitment on the part of society to educate youth before they become offenders. The Special Committee then toured the Milwaukee Women's Correctional Center and heard presentations by Superintendent (and Special Committee Member) Barbara Powell and by three current residents and one former resident of the Center relating to their experiences and the programs and services offered at the Center.

At the November 5, 1992 meeting, the Special Committee received testimony from the following persons:

1. Cindy Schoenike, Deputy Administrator, Division of Management Services, DOC, who provided an overview of the DOC's 1993-95 budget request as it was submitted to the Governor. She explained that there was very little in the budget specifically relating to women offenders.
2. Dr. Ken Lemer, Director, Bureau of Clinical Services, DOC, who provided an overview of the services within the Bureau. He noted that compared to male offenders, women offenders are higher consumers of mental health services, have more victimization issues in their background and are more willing to use clinical services.
3. Dr. Pat Allen, Section Chief, Bureau of Clinical Services, DOC, who provided information on the clinical services provided at TCI, noting that there are two full-time psychologists and one psychiatrist who consults one-half day per week. She noted that the chief psychological problems of women relate to: (a) victimization; and (b) drug abuse and the frequency of brain damage resulting from drug abuse. She noted that there is a definite need for more staff, especially staff psychologists.
4. Barbara Sutton, Regional Chief, Division of Probation and Parole (DPP), DOC, Green Bay, who provided the Committee with a brief overview of probation and parole issues relating to women offenders, including a discussion of current unmet needs. She noted that the DPP focuses on the woman offender's need for life skills and budgeting and managing skills, as well as on building community support for the offender.

5. Anne Mikkelson, Adult Services Specialist, DPP, DOC, who described the current and future direction of the DPP, noting that there is a need for, among other things, a comprehensive approach to employment of women offenders by emphasis on nontraditional job training and job-seeking and job retention skills, more halfway houses for women offenders, transitional living arrangements for women with children, intensive in-home services for women offenders and their families, increased day treatment services, better AODA treatment and a coalition of resources so that highly rural areas can tap into existing resources in urban areas.

6. Professor (and Special Committee Member) Mary Gilfus, who commented on inmate classification systems across the country, noting that the classification model used in probation and parole in Wisconsin is one of the best she has seen. She noted that there are no empirical bases for the classification system for women, explaining that the system for women was developed based on male risk profiles. She noted that, because of this fact, recommending changes in the current classification tools in Wisconsin is difficult and there is a definite need to develop better data that is gender-specific to women before changing the classification instrument.

7. Ken Streit, who made some general comments on community corrections for women offenders in Wisconsin, describing various key questions which should be addressed with reference to these offenders. He described a number of possible changes to improve the current system relating to women offenders, especially with regard to child visitation and child custody matters.

At the December 8, 1992 meeting, the Special Committee heard testimony from Robert Owens, Director of Clinical Services, TCI, and Gary Arling, Section Chief, Bureau of Clinical Services, DOC. Mr. Owens described the process by which female inmates are tested to determine whether they are in need of clinical services at TCI and described the type of services that women who qualify are provided. He noted that, at present, the women incarcerated at TCI do not have access to the mental health delivery system outside of TCI and, in particular, a mental health institute, as do male inmates who have the Wisconsin Resource Center. Dr. Arling discussed the number of and reasons why women at TCI are on psychotropic drugs.

The Special Committee then heard from James D. Hart, Program Director, TCI, and Susan Lopau, Social Worker, TCI, on social services programs and services for women offenders at TCI. Mr. Hart described the various steps a woman offender takes as she progresses through the system at TCI and described the demographics of the population at TCI. Ms. Lopau discussed how she facilitates the movement of women through TCI, taking a holistic approach, in which she either addresses all areas of an offender's need herself or refers the person to other services. She commented specifically on the programs at TCI relating to visitation and telephone contact of children with their inmate-mothers. The Special Committee then heard from Sheryl Hayward Beagle, Executive Director, Genesis II for Women, Inc., Minneapolis, Minnesota, which provides day treatment and other community-based programs for female offenders in the Minnesota Correctional System. She explained that the program: (1) provides on-site day care for children ages birth to 13, in which the children receive services as well, including developmental testing and further assistance for those who are at high risk; and (2) utilizes a case management system to coordinate with the seven or more professionals who may be working with a woman and her children at any particular time. She noted that what is unique about the Genesis II program is that

it combines and balances the battered women's philosophy of recognizing an offender as a victim with the corrections' philosophy of holding a person accountable for her actions. Finally, the Committee heard from Ken Streit, who described a possible pilot program for additional funding for services for women offenders in the DIS. The Special Committee concluded by discussing the possibility of creating a position in DOC or an advisory council to DOC on women offenders in the corrections system and the possibility of creating some sort of long-range planning requirement for the DOC in dealing with women offenders.

At the January 15, 1993 meeting, the Special Committee heard testimony from Kristine Krenke, the newly-appointed Superintendent at TCI. Ms. Krenke commented that among her goals are: (1) to develop productive and honest communications with her staff, the media, the surrounding community and women's organizations across the state; (2) to prioritize TCI's resources; (3) to continue TCI's national reputation for having model programs for women offenders, such as the Women and Chemicals Program; and (4) to have TCI have an impact on the entire correctional system and be seen as a significant part of the larger state correctional system. The Special Committee then discussed a draft relating to creating a council on women offenders and a position on women offenders in the DOC. The Committee also discussed a draft relating to long-range planning for adult female offenders and a funding proposal from Ken Streit involving a pilot program to evaluate the efficacy of developing new types of "Phase I" intensive sanctions programs so that judges could sentence female offenders directly to DIS rather than sentencing them to TCI. Chairperson Young concluded the meeting by establishing an informal working group of Committee members and other interested persons to meet prior to the next meeting to discuss the various issues relating to women offenders and their children.

At the February 10, 1993 meeting, the Special Committee discussed issues relating to the defense of battered women who kill or injure their abusive partners. Chairperson Young reported that several Committee members and staff had met in Milwaukee with Sue Osthoff, Executive Director, National Clearinghouse for the Defense of Battered Women, Philadelphia, Pennsylvania, to discuss these issues and had determined that: (1) the current Wisconsin statutory language is adequate to permit the admission of self-defense evidence; and (2) the best course of action is to encourage the establishment of educational programs for defense and prosecuting attorneys as well as judges to make them aware of issues relating to battered women. The Special Committee then discussed, and gave final approval to, two drafts, one relating to long-range planning for adult female offenders and the second relating to creating a council on women offenders and designating one or more persons as women offenders coordinator in the DOC. The Committee then discussed a draft of Mr. Streit's proposal relating to additional funding for treatment of women offenders who are participants in the ISP. Finally, the Special Committee discussed the recommendations of the Committee's Working Group on Incarcerated Women and Their Children, which met on January 22, 1993 to develop its recommendations for changes relating to "primary caretaker inmate-parents" and visitation and other communication between inmate-parents and their children.

At the March 30, 1993 meeting, the Special Committee gave final approval to drafts relating to: (1) the reasonable efforts standard applicable to imprisoned parents and their children; (2) permanency planning for a child whose parent is a prisoner; (3) the opportunity of a parent who is a prisoner to participate in certain court hearings relating to his or her child; (4) imprisonment

as a factor in involuntary termination of parental rights proceedings; (5) assessment of the needs of a primary caretaker inmate-parent in the correctional system; (6) visitation and other communication with an inmate-parent's child; (7) parental status as an item of consideration in a presentence report after a criminal conviction; and (8) purchasing services for intensive programming for women offenders in ISP. The Special Committee also heard briefly from several Committee members who are continuing work on the issue of battered women who are in the Wisconsin correctional system because of killing a spouse or significant other person.

C. COMMITTEE AND LEGISLATIVE COUNCIL VOTES

1. Committee Votes

a. WLCS: 291/1

At its March 30, 1993 meeting, the Special Committee on Women Offenders in the Correctional System gave unanimous consent to a request by Chairperson Young that she be permitted to combine drafts recommended by the Committee as she deemed appropriate. *Subsequently, Chairperson Young decided to combine the following drafts into one draft, WLCS: 291/1, for introduction in the 1993-94 Legislature:*

(1) WLCS: 223/1, relating to the reasonable efforts standards applicable to imprisoned parents and their children. By a March 30, 1993 vote, the Special Committee voted to recommend this draft, as amended at that meeting, by a vote of Ayes, 13 (Reps. Young, Bell, Klusman, Panzer and Travis; Sens. Moen and Lorman; and Public Members Christenson, Di Motto, Koeffler, Krenek, Shaver and Streit); Noes, 0; and Absent, 5 (Sen. Darling; and Public Members Davidson, Drew, Gilfus and Thompson).

(2) WLCS: 224/1, relating to permanency planning for a child whose parent is a prisoner. By a March 30, 1993 vote, the Special Committee voted to recommend this draft, as amended at that meeting, by a vote of Ayes, 13 (Reps. Young, Bell, Klusman, Panzer and Travis; Sens. Moen and Lorman; and Public Members Christenson, Di Motto, Koeffler, Krenek, Shaver and Streit); Noes, 0; and Absent, 5 (Sen. Darling; and Public Members Davidson, Drew, Gilfus and Thompson).

(3) WLCS: 225/1, relating to the opportunity of a parent who is a prisoner to participate in certain court hearings relating to his or her child. By a March 30, 1993 vote, the Special Committee voted to recommend this draft, as amended at that meeting, by a vote of Ayes, 13 (Reps. Young, Bell, Klusman, Panzer and Travis; Sens. Moen and Lorman; and Public Members Christenson, Di Motto, Koeffler, Krenek, Shaver and Streit); Noes, 0; and Absent, 5 (Sen. Darling; and Public Members Davidson, Drew, Gilfus and Thompson).

(4) WLCS: 226/1, relating to imprisonment as a factor in involuntary termination of parental rights proceedings. By a March 30, 1993 vote, the Special Committee voted to recommend this draft by a vote of Ayes, 10 (Reps. Young and Bell; Sen. Lorman; and Public Members Christenson, Di Motto, Gilfus, Koeffler, Krenek, Shaver and Streit); Noes, 2 (Reps. Klusman and

Panzer); and Absent, 6 (Sens. Moen and Darling; Rep. Travis; and Public Members Davidson, Drew and Thompson).

(5) WLCS: 228/1, relating to assessment of needs of primary caretaker inmate-parents in the correctional system. By a March 30, 1993 meeting, the Special Committee voted to recommend this draft, as amended at that meeting, by a vote of Ayes, 13 (Reps. Young, Bell, Klusman and Panzer; Sen. Lorman; and Public Members Christenson, Di Motto, Gilfus, Koeffler, Krenek, Shaver, Streit and Thompson); Noes, 0; and Absent, 5 (Sens. Moen and Darling; Rep. Travis; and Public Members Davidson and Drew).

(6) WLCS: 229/1, relating to visitation and other communication with an inmate-parent's child. By a March 30, 1993 meeting, the Special Committee voted to recommend this draft, as amended at that meeting, by a vote of Ayes, 11 (Reps. Young, Bell and Panzer; and Public Members Christenson, Di Motto, Gilfus, Koeffler, Krenek, Shaver, Streit and Thompson); Noes, 1 (Rep. Klusman); and Absent, 6 (Sens. Moen, Lorman and Darling; Rep. Travis; and Public Members Davidson and Drew).

(7) WLCS: 240/1, relating to parental status as an item of consideration in presentence report after criminal conviction. By a March 30, 1993 vote, the Special Committee voted to recommend this draft, as amended at that meeting, by a vote of Ayes, 12 (Reps. Young, Bell, Klusman and Panzer; and Public Members Christenson, Di Motto, Gilfus, Koeffler, Krenek, Shaver, Streit and Thompson); Noes, 0; and Absent, 6 (Sens. Moen, Lorman and Darling; Rep. Travis; and Public Members Davidson and Drew).

b. WLCS: 292/1

By a February 10, 1993 vote, the Special Committee on Women Offenders in the Correctional System voted to recommend WLCS: 292/1 (which is a combination of WLCS: 72/2, as amended by the Committee, and WLCS: 75/2, as amended by the Committee) to the Legislative Council for introduction in the 1993-94 Legislature, by a vote of Ayes, 12 (Reps. Young, Klusman and Panzer; Sens. Moen, Lorman and Darling; and Public Members Christenson, Drew, Koeffler, Krenek, Streit and Thompson); Noes, 0; and Absent, 6 (Reps. Bell and Travis; and Public Members Davidson, Di Motto, Gilfus and Shaver).

c. WLCS: 293/1

In addition to the drafts described above, the Special Committee on Women Offenders in the Correctional System also recommended WLCS: 293/1 to the Legislative Council for introduction in the 1993-94 Legislature. WLCS: 293/1 provided the DOC with additional purchase-of-service dollars to purchase services for women offenders that are comparable in requirements and sanctions to placement in a Type 1 prison [e.g., Taycheedah Correctional Institution (TCI)]. The intent of these targeted purchase-of-service dollars was to assist the DOC in developing alternatives to Type 1 prison placements which could subsequently be available for both male and female offenders in appropriate cases.

By a March 30, 1993 vote, the Special Committee on Women Offenders on the Correctional System voted to recommend WLCS: 293/1 to the Legislative Council for introduction in the 1993-94 Legislature, by a vote of Ayes, 12 (Reps. Young, Bell, Klusman and Panzer; and Public Members Christenson, Di Motto, Gilfus, Koeffler, Krenek, Shaver, Streit and Thompson); Noes, 0; and Absent, 6 (Sens. Moen, Lorman and Darling; Rep. Travis; and Public Members Davidson and Drew). As noted below, this draft was subsequently tabled by the Legislative Council because it was, in major part, enacted into law in 1993 Wisconsin Act 16 (the 1993-95 Budget Act).

2. Legislative Council Votes

At its October 7, 1993 meeting, the Legislative Council voted to introduce WLCS: 291/1 (which later became 1993 Assembly Bill 996) by a vote of Ayes, 19 (Sens. Risser, Lorman, Burke, Drzewiecki, Ellis, Farrow, George, Jauch, Leman and Rude; and Reps. Schneider, Brancel, Carpenter, Deininger, Kunicki, Linton, Potter, Travis and Vergeront); Noes, 1 (Rep. Prosser); and Absent, 1 (Rep. Gruszynski).

At that same meeting, the Legislative Council voted to introduce WLCS: 292/1 (which later became 1993 Assembly Bill 997) by a vote of Ayes, 20 (Sens. Risser, Lorman, Burke, Drzewiecki, Ellis, Farrow, George, Jauch, Leman and Rude; and Reps. Schneider, Brancel, Carpenter, Deininger, Kunicki, Linton, Potter, Prosser, Travis and Vergeront); Noes, 0; and Absent, 1 (Rep. Gruszynski).

Upon a request by Chairperson Young, the Legislative Council gave unanimous consent to tabling WLCS: 293/1, a product of the Special Committee, because that proposal had, in major part, been enacted into law in 1993 Wisconsin Act 16 (the 1993-95 Budget Act).

D. STAFF MATERIALS

Appendix 4 lists all of the materials received by the Special Committee on Women Offenders in the Correctional System. The following documents, prepared by the Legislative Council Staff, may be of particular interest to persons interested in the work of the Special Committee:

1. Staff Brief 92-6, *Background on Wisconsin's Prison and Community Corrections System* (August 26, 1992).
2. MEMO NO. 7, *Recommendations of the Special Committee's Working Group on Incarcerated Women and Their Children* (February 3, 1993).

PART III

BACKGROUND; DESCRIPTION OF BILLS

This Part of the Report provides background information on, and a description of, the legislation recommended by the Special Committee on Women Offenders in the Correctional System and the Legislative Council for introduction in the 1993-95 Legislature.

A. 1993 ASSEMBLY BILL 996, RELATING TO PARTICIPATION OF AN INMATE-PARENT IN CERTAIN COURT HEARINGS RELATING TO HIS OR HER CHILD, PERMANENCY PLANNING FOR A CHILD WHOSE PARENT IS AN INMATE, REASONABLE EFFORTS REQUIREMENTS APPLICABLE TO INMATE-PARENTS AND THEIR CHILDREN, IMPRISONMENT AS A FACTOR IN INVOLUNTARY TERMINATION OF PARENTAL RIGHTS PROCEEDINGS, ASSESSMENT OF NEEDS OF PRIMARY CARETAKER INMATE-PARENTS, VISITATION AND OTHER COMMUNICATION BETWEEN AN INMATE-PARENT AND HIS OR HER CHILD AND A DEFENDANT'S PARENTAL STATUS AS AN ITEM OF CONSIDERATION IN A PRESENTENCE INVESTIGATION REPORT AFTER CERTAIN CRIMINAL CONVICTIONS AND GRANTING RULE-MAKING AUTHORITY

1. Background

a. Overview of, and Statistics Relating to, Women Inmates and Their Children

In a recent publication [Bloom and Steinhart, *Why Punish the Children? A Reappraisal of the Children of Incarcerated Mothers in America*, National Council on Crime and Delinquency (NCCD) (January 1993)], the authors note, at page 15:

In the crusade to get tough on crime, criminal justice policymakers have gotten tough on women, drawing them into prisons and jails in rapidly increasing numbers. The system has become more rigid, sacrificing the flexibility to consider alternate outcomes for women with young children. Unfortunately, while policymakers have shown women that they will receive the same consequences as men for their offenses, they have also systematically punished their children.

The authors then cite the following statistics:

[1.] There are now an estimated 1.5 million children of incarcerated parents in the United States. In California alone, the number is estimated to exceed 200,000 children.

These estimates are for children of incarcerated parents of both sexes. No national survey has published a recent count of the

number of children of incarcerated women. From older surveys we know that women prisoners had more than 37,000 children in 1986 and that women in jails had more than 52,000 minor children in 1989.

[2.] NCCD estimates that on any given day in 1991 there were approximately 167,000 children of women in adult prisons and jails throughout the United States. We further estimate that at least three-fourths of all these children, or more than 125,000 individuals, were under the age of 18. This estimate of 125,000 minor children represents only those who, on a single census day in 1991, had mothers in jails or prisons. The turnover in the prison population, and the faster recycling of the jail population, guarantee that many more young lives are affected each year by the experience of their mother's incarceration.

The authors conclude at pages 16 and 17:

The harm done to children by this experience can be sudden and substantial. There are immediate and sometimes long lasting psychological effects. There may be declines in the quality of shelter and personal care, including onset of poor nutrition and inadequate medical attention. Peer relations and school performance may suffer. The mother-child relationship may be permanently damaged. The child may be placed at increased risk of future institutionalization by the criminal justice system.

* * * * *

Wherever the children go, the maternal relationship is jeopardized. In some instances, the state terminates the mother's right to legal custody of her children. Even where the mother retains legal custody, she will have reduced and sometimes no contact with her children while she is imprisoned. Some innovative correctional programs promote mother-child contact and facilitate reunification upon release. But no program can fully eliminate the sadness, anxiety and despair that children feel when they are forced to adjust to their mother's imprisonment.

b. Special Committee's Working Group on Incarcerated Women and Their Children

At the January 15, 1993 meeting of the Special Committee, Chairperson Young established the Special Committee's Working Group on Incarcerated Women and Their Children to develop preliminary recommendations relating to that subject area. Members of the Working Group, which met on January 22, 1993, were Chairperson Rebecca Young; Frankie Fuller, Aide to Senator Alberta

Darling; Public Member Iris Christenson; Technical Advisory Committee Member Martha Askins; and Evelyn Mazack, from the State Public Defender's Office, who worked previously at the Legislative Reference Bureau as a drafter of legislation under the Children's Code [ch. 48, Stats.].

At its meeting, the Working Group identified the following as among the more significant problem areas for incarcerated women with children:

(1) Parents who were the primary caretakers of their children prior to incarceration have minimal or no contact with their children during the period of incarceration. Obstacles to continuing contact with their children include, but are not limited to:

- (a) Indigence of the incarcerated parent or the child's caregiver during the incarceration.
- (b) The distance between the child's home and prison.
- (c) A prison environment which is not conducive to visits with children. The DOC and individual prison rules relating to telephone calls to, and visits from, an inmate's children overly restrict an inmate-parent's contact with her children.

(2) Parents who were primary caretakers of their children prior to incarceration and whose children are placed in foster care during the parents' incarceration have problems in addition to those in item (1), above, including:

- (a) The parents may be left out of court hearings and permanency plan review meetings due to lack of notice or lack of understanding of their legal rights.
- (b) The social worker in the inmate-parent's home county may not provide any, or adequate, assistance to the foster parent in arranging visitation (e.g., paying transportation costs or providing transportation to the prison).
- (c) The social worker in the institution may not provide financial assistance for collect telephone calls to the foster home or even allow collect calls from the inmate to the social worker in the home county.
- (d) The social worker for the family may not communicate with the inmate-parent, the social worker at the prison or the inmate-parent's probation or parole agent about the children's current status or difficulties.

As a general observation, the Working Group concluded that better communication and coordination among all of the parties mentioned above would result in more comprehensive and realistic permanency plans for the family and prerelease plans for the inmate-parent.

2. Description of 1993 Assembly Bill 996

This portion of the Report describes the key provisions in 1993 Assembly Bill 996. For purposes of this Bill:

a. "Inmate" is defined to mean any person who is imprisoned in a state prison under s. 302.01, Stats., which names and defines all of the state prisons.

b. "Primary caretaker inmate-parent" is defined to mean *any* of the following:

c. A parent who is an inmate and who, before imprisonment, assumed responsibility for the housing (including temporary placement in the home of a responsible adult) health and safety of his or her child.

d. A parent who is an inmate and who, before imprisonment, had primary physical placement, as defined in s. 767.001 (5), Stats., of his or her child.

e. A woman who is an inmate and who gives birth, or is expected to give birth, to a child during the term for which the woman is currently imprisoned.

f. A woman who is an inmate and who gives birth to a child within six months before imprisonment.

a. Participation in Court Hearings Relating to Inmate's Child

This Bill provides that for certain significant hearings under the Children's Code regarding a child of an inmate (e.g., an involuntary termination of parental rights hearing), the court must, upon receiving timely notice from an inmate-parent that the parent intends to participate in the hearing, ensure that the inmate-parent has an opportunity to participate in the hearing by doing *one* of the following:

1. Summons to appear. The court must issue a summons for the inmate-parent to appear in court for the proceeding. The sheriff of the county in which the summons is issued must ensure compliance with the summons.

2. Telephone conference. The court must arrange for a telephone conference with the inmate-parent in place of an in-person appearance at the hearing. The telephone conference is at the expense of the county in which the hearing is held, and not at the inmate-parent's expense.

The Bill also provides that, under certain circumstances, the court or agency in charge of permanency planning must provide for telephone conferencing for permanency planning review [s.

48.38, Stats.] under the Children's Code. The telephone conference is at the expense of the county in which the hearing is held.

b. Permanency Planning for a Child Whose Parent Is an Inmate

(1) Items in Permanency Plan if Parent Is an Inmate

Under *current law*, in general, for each child living in a foster home, group home, child-caring institution, secure detention facility or shelter care facility, the agency that placed the child or arranged the placement or the agency assigned primary responsibility for providing services to the child under s. 48.355, Stats., must prepare a written permanency plan [s. 48.38, Stats.] if certain conditions exist. A "permanency plan" is defined to mean a plan designed to ensure that a child is reunified with his or her family whenever possible, or that the child quickly attains a placement or home providing long-term stability. One of the items the permanency plan must include is a description of the services that will be provided to the child, the child's family and the child's foster parent or operator of the facility where the child is living to carry out the dispositional order, including services planned to accomplish all of the following: (a) ensure proper care and treatment of the child and promote stability in the placement; (b) meet the child's physical, emotional, social, educational and vocational needs; and (c) improve the conditions of the parents' home to facilitate the return of the child to his or her home or, if appropriate, obtain an alternative permanent placement for the child.

The *Bill* adds a fourth item to the list to specify that in describing the services in the permanency plan, the plan must describe services to accomplish the following:

- (a) To improve the relationship between a primary caretaker inmate-parent and his or her child during the parent's imprisonment;
- (b) To facilitate continued communication and a continuing parental relationship between the parent and the child during the parent's imprisonment; and
- (c) To facilitate reunification of the child and the parent.

(2) Notice of Permanency Plan Review

Under *current law*, the court or agency involved in permanency planning for a child must give notice to, among others, the child's parents of the time and place of a permanency plan review and of the fact that they may participate in the review. The notice must be in writing and must be given not less than 10 days before the review [s. 48.38 (5) (b), Stats.].

The *Bill* specifies that if the parent is a primary caretaker inmate-parent, the notice must be provided, in writing, not less than 30 days before the review.

(3) Items Determined at Plan Review

Current law sets forth a number of items the court or panel must determine during the permanency plan review [s. 48.38 (5) (c), Stats.].

The **Bill** adds an item to that list, specifying that the court or panel must determine whether reasonable efforts were made by the agency to facilitate communication and a parental relationship between the parent who is an inmate and the child and to facilitate reunification between the child and the primary caretaker inmate-parent.

c. Reasonable Efforts Requirement

Under **current law** [s. 48.355 (2c), Stats.], in any dispositional order following a delinquency adjudication under s. 48.34, Stats., or a finding that the child is in need of protection or services (CHIPS) under s. 48.345, Stats., the court's dispositional order or finding must contain certain statutorily prescribed items. One of those items is that if the child is placed outside the home, the court must make a finding: (1) as to whether a county department which provides social services, or the agency primarily responsible for provision of services under a court order, has made "reasonable efforts" to prevent the removal of the child from the home; or (2) if applicable, that the agency primarily responsible for the provision of services under a court order has made "reasonable efforts" to make it possible for the child to return to his or her home. Current law specifies that the court, in making its finding relating to "reasonable efforts," must consider, among other things, certain factors set forth in the statute [e.g., whether a comprehensive assessment of the family's situation was completed; whether financial assistance, if applicable, was provided to the family; whether services (such as in-home support and intensive treatment services, parent skills training and employment training) were offered or provided to the family and whether any assistance was provided to the family to utilize the services; and whether a consideration of alternative ways of addressing the family's needs was provided, if services did not exist or existing services were not available to the family].

The **Bill** creates a separate "reasonable efforts" provision to deal specifically with inmate-parents, specifying that "reasonable efforts" for inmate-parents and their families must include, in addition to the considerations described above under current law, consideration of whether *all* of the following have occurred:

1. A comprehensive assessment of the family's situation during the parent's imprisonment was completed, including a determination of the likelihood of reunification after the parent's imprisonment ends.
2. Financial assistance, if applicable, was provided to the family and the inmate-parent to enable reasonable visitation and contact between the parent and the child.
3. Services were offered or provided to the family, if applicable, and whether any assistance was provided to the family to enable the family to use the services. Statutorily specified examples of the types of services that may have been offered include:

(a) Transportation of a child to and from a state prison in which the parent is an inmate or transportation of the parent to a location convenient to the child to enable reasonable visitation and contact between the parent and the child.

(b) Assistance in arranging adequate communication between the inmate-parent and his or her child.

4. Efforts were made to coordinate services among the Division of Adult Institutions, the Division of Probation and Parole and the Division of Intensive Sanctions in the DOC.

d. Imprisonment as a Factor in Involuntary Termination of Parental Rights Proceedings

Current law [s. 48.415, Stats.] sets forth the grounds for involuntary TPR. Among those grounds are:

1. *Abandonment*, which may be established by a showing that, among other things: (a) the child has been placed, or continued in a placement, outside the parent's home by a court order and the parent has failed to visit or communicate with the child for a period of six months or longer; or (b) the child has been left by the parent with a relative or other person, the parent knows or could discover the whereabouts of the child and the parent has failed to visit or communicate with the child for a period of one year or longer. Current law provides that incidental contact between a parent and child does not preclude the court from finding that the parent has failed to visit or communicate with the child under item (a) or (b), above, and that the time periods under those items may not include any periods during which the parent has been prohibited by judicial order from visiting or communicating with the child.

2. *Continuing need of protection or services*, which may be established by a showing of all of the items set forth in s. 48.415 (2), Stats., including that the child has been outside the home for a cumulative total period of one year or longer pursuant to a CHIPS order or a related order (e.g., extension or revision of CHIPS order); the parent has substantially neglected, wilfully refused or been unable to meet the conditions established for return of the child to the home; and there is a substantial likelihood that the parent will not meet these conditions in the future.

The *Bill* provides that, with reference to abandonment as a grounds for TPR, the time periods set forth in item a, above, must not include any periods during which the parent is or was an imprisoned inmate and was prevented from visiting or communicating with the child due to factors primarily caused by the parent's imprisonment. The Bill specifies that this new provision does not apply if the parent's parole eligibility date occurs on or after the child's 18th birthday.

With reference to CHIPS as a grounds for TPR, the Bill specifies that the grounds set forth in item b, above, do not apply to a parent who is an inmate and who is unable to meet conditions established for the return of the child to the home due to factors primarily caused by the parent's imprisonment.

e. Assessment of Needs of Primary Caretaker Inmate-Parents

The Bill requires the DOC, during the assessment and evaluation process at the admitting state correctional institution, to assess the current family situation of a primary caretaker inmate-parent. The assessment must include, among other things, *all of the following*:

1. Where the inmate's child is currently living.
2. Who is the current caregiver of the inmate's child.
3. Whether adequate arrangements can be made for contact between the primary inmate and the child.
4. Whether the child is the subject of a petition or a dispositional order under ch. 48, Stats., the Children's Code (e.g., a delinquency disposition; a petition alleging that the child is in need of protection or services).
5. The need for the inmate to maintain contact with his or her child.

The Bill specifies that in developing a final assessment and evaluation report, and in any subsequent review of the placement of an inmate who is a primary caretaker inmate-parent, the DOC must, subject to security requirements, consider the feasibility of placement of the inmate in a facility that is as close as possible to his or her child. The DOC must set forth in writing its reasons for placing or not placing the inmate in the closest possible facility.

The Bill provides that any final assessment and evaluation report of an inmate who is a primary caretaker inmate-parent must include recommendations regarding the services needed to assist the inmate in maintaining contact with his or her child and in assuming as much responsibility as possible for decision-making regarding the child.

The Bill also creates a mechanism for an inmate to make a *written declaration* of his or her status as a primary caretaker inmate-parent early in the assessment and evaluation process. The purpose of this declaration is to provide notice of the inmate's status to the juvenile court and county social services department in the county or counties in which the inmate's child or children reside. This is important because other provisions in the Bill require that notice of certain hearings relating to a primary caretaker inmate-parent's child be sent to the primary caretaker inmate-parent. The DOC is required to: (1) provide the form necessary to make this declaration; (2) inform the inmate, orally and on the form, of the reasons for the declaration; and (3) within 10 days after the declaration is signed, forward a copy of the signed declaration to the juvenile court with jurisdiction over the child and the county department of social services in the county in which that court is located. The county department must ensure that a copy of the declaration is given to the child's caseworker, if any.

These provisions of the Bill: (1) first apply to any assessment and evaluation commenced on the effective date of the new law; and (2) have a delayed effective date, taking effect on the first day of the third month beginning after publication of the new law.

f. Visitation and Other Communication With Inmate-Parent's Child

The Bill creates the following provisions relating to visitation, telephone calls and other forms of communication between an inmate-parent and his or her child:

1. **Visitation with children.** During the orientation portion of an inmate's assessment and evaluation:

(a) The inmate's social worker or other appropriate staff member at the institution must determine whether the inmate has a child under the age of 18 and, if so, determine whether the inmate desires visitation with that child and inquire whether there are any court-imposed restrictions on visits by the inmate's child or contact with the inmate's family.

(b) The DOC must provide the inmate information describing the resources that are available to assist the inmate in achieving visitation with his or her child.

2. **Telephone calls to children.** The DOC must:

(a) Permit an inmate to have *at least one telephone conversation per week* with his or her child. The DOC must designate one or more appropriate persons who may accept telephone calls from the inmate to his or her child and place the child on the telephone for purposes of the call. These designated persons may include, among others, the child's other parent, foster parent or a relative of the child who is caring for the child in the parent's absence.

(b) Except if the social worker determines that it would be detrimental to the child, encourage an inmate to have telephone contact with his or her child and to telephone his or her child at least one time per week.

(c) Ensure that each state correctional institution makes available to inmates a written policy that contains a specific procedure for arranging telephone calls between an inmate and his or her child.

3. **Department rules.** The DOC must promulgate rules to implement these new provisions. The rules must:

(a) Encourage communication between an inmate and his or her child through visits, telephone calls and correspondence as a means of fostering reintegration into the community and maintenance of family ties.

(b) Require the DOC to designate staff at each state correctional institution to facilitate communication between an inmate and his or her child, unless that communication is prohibited by court order.

4. **Limitations on prohibiting communication as a sanction.** The DOC may not prohibit an inmate from visiting, telephoning or corresponding with his or her child *unless* the inmate has been disciplined by the DOC for misconduct that is *directly related* to visiting, telephoning or corresponding with the inmate's child. However, if an inmate is in *segregation status*, his or her telephone privileges may be suspended (i.e., the institution must determine whether or not suspension of these privileges is an appropriate sanction for the particular inmate in segregation).

g. Defendant's Parental Status as an Item of Consideration in a Presentence Report

Under *current law* [s. 972.15 (1), Stats.], after a criminal conviction, the court may order a presentence investigation. However, the court is permitted to order an employe of the DOC to conduct such an investigation only after a conviction for a felony.

The *Bill* requires the DOC, in its presentence investigation report, to provide information regarding a defendant's parental status, including:

1. The number and ages of the defendant's children.
2. The defendant's legal custody and physical placement rights to the children.
3. The current placement status of the children.
4. Any other relevant information the court may request.

B. 1993 ASSEMBLY BILL 997, RELATING TO CREATING A COUNCIL ON WOMEN OFFENDERS, DESIGNATING ONE OR MORE PERSONS AS WOMEN OFFENDERS COORDINATOR IN THE DEPARTMENT OF CORRECTIONS, LONG-RANGE PLANNING FOR WOMEN OFFENDERS AND MAKING APPROPRIATIONS

1. Background

a. Advisory Council to DOC or Position in DOC Specifically Relating to Women in the Correctional System

(1) **Advisory Council During the 1980's.** In September of 1983, the Secretary of the Department of Health and Social Services (DHSS), which had jurisdiction over corrections prior to creation of the DOC, and the Administrator of the Division of Corrections in DHSS, appointed an Advisory Council on Women Offenders to identify and make recommendations concerning any necessary program and policy changes relating to women offenders in the corrections system. Special Committee members were provided a copy of the April 1985 Report of the Advisory Council prior to the November 5, 1992 meeting. The Advisory Council was dissolved in the late 1980's and, until very recently, there was no similar council or person with a similar charge in the DOC.

In apparent response to the Special Committee's concerns about the need for a council or other body to identify and make recommendations relating to women offenders, Patrick J. Fiedler, Secretary, DOC, indicated (in a letter to DOC Division Administrators dated January 11, 1993) his support for an on-going internal DOC Work Group on Women Offenders' Issues and Programs. A copy of that letter is attached as **Appendix 3** to this Report. The letter sets forth the composition and possible assignments of the Work Group.

(2) **Position in DOC.** In *The Female Offender: What Does The Future Hold?* (1990), the American Correctional Association's Task Force on Female Offenders recommends, at page 43, that:

State departments of corrections and local detention authorities should include in their administrative structure a division or unit, depending on the size of the agency, that has primary responsibility for the administration of women's services.

In its discussion of this recommendation, the Task Force notes:

The administrator of the women's services unit should report directly to the director/secretary of corrections or ranking administrator for local detention. The division/unit should have sufficient personnel to plan, design, provide oversight and ensure that adequate staffing and funding for women are provided. This unit would also ensure that services and programs are provided at parity and are readily available from the reception center and multi-level institutions to community correctional centers and community supervision. For

state agencies that have audit or direct responsibility for local facilities in the state, this unit would provide those services or supervision specific to the female offender population.

There is currently no such position in the DOC.

b. Long-Range Planning Directed at Women in the Correctional System

The DOC currently does not have any significant long-range planning requirement applicable to adult female offenders in the custody or control of the DOC.

As an example of a state that has such a requirement, under current Illinois law, the Illinois DOC is required every two years to transmit to the Governor and the General Assembly a five-year long-range planning document for adult female offenders under the Illinois DOC's supervision. The document must detail how the DOC plans to meet the housing, educational training, correctional industries and programming needs of the escalating adult female offender population. The report has to be submitted by January 1 of the year in which it is due [Ch. 39, par. 1003-5-3, Illinois Code].

2. Description of 1993 Assembly Bill 997

a. Council on Women Offenders

The Bill creates a Council on Women Offenders in the DOC to review the problems and needs of women offenders throughout the correctional system, advise the Secretary of Corrections on those problems and needs and recommend necessary program and policy changes, including statutory and administrative rule changes, relating to those problems and needs. The Council is to consist of 15 members and the membership must, to the extent possible, reflect the racial makeup of the total female offender population under the control and supervision of the DOC.

The membership must include four Legislators, a circuit court judge, an assistant state public defender, a prosecuting attorney, three employes of the DOC and five citizen members (including one female ex-offender) who are knowledgeable about issues relating to women offenders. Members serve at the pleasure of the appointing authority specified in the Bill. The Bill provides \$1,400 general purpose revenue (GPR) in fiscal year 1993-94 and \$2,800 GPR in fiscal year 1994-95 to cover the expenses of the Council. The Council is directed to report annually to the Secretary of Corrections and the chairpersons of the Assembly and Senate standing committees with jurisdiction over corrections issues, regarding the activities of the Council and any legislative or administrative recommendations.

The Bill specifies that the creation of the Council would take effect on *January 1, 1994*. The provision creating the Council *sunset*s on *December 31, 1996*.

b. Women Offenders Coordinator

The Bill directs the DOC to designate one or more persons within the DOC as women offenders coordinators to do all of the following: (1) provide coordination for policies and programs in the DOC relating to women offenders; and (2) provide staff support to the Council on Women Offenders created in the Bill (see item a, above).

c. Long-Range State Plan

The Bill creates a state planning process for consideration of the service, programming and other needs, including culturally specific needs, of women offenders under the custody or supervision of the DOC. Beginning *not later than June 30, 1994* (and every four years thereafter by June 30), the DOC is required to prepare a *four-year*, long-range state plan which includes, among other things:

- (1) Recommended priorities for program, services and facility development to meet short-term and long-term needs of women offenders.
- (2) Recommended priorities for termination, modification or reduction of certain programs or services or reduction in or discontinuance of the use of certain facilities.
- (3) A description of existing DOC programs and services, including the number and types of persons receiving such services and programs and the amount and sources of funding for such services.
- (4) A description of alternative approaches to the problems of imprisoned mothers and their infant children (e.g., alternatives to removing a newborn child immediately from the mother after the child's birth) and the feasibility of implementing any of those approaches in Wisconsin. "Infant children" refers to children who have not attained the age of three years.

The Bill sets forth a nonexhaustive list of the types of programs and services the plan must consider, including those relating to: (1) physical and mental health; (2) education and life skills; (3) family relationships (e.g., visitation or residential stays with children); (4) linkages with community resources; (5) employment; (6) housing; and (7) provision of legal services with reference to family, civil and juvenile matters.

Except in years when the DOC prepares a plan, the plan must be *updated annually*, with updates due not later than June 30.

After an opportunity for review of and comment on the DOC's proposed plan, the final plan, and annual updates to the plan, must be submitted to the Governor, the standing committees with

jurisdiction over corrections issues in each house of the Legislature and the Joint Committee on Finance.

The Bill also requires the DOC, in formulating the plan, to consider the comments and recommendations of the Council on Women Offenders (see item a, above) and any person or persons designated by the DOC Secretary as women offenders coordinator (see item b, above).

DLS:PS:rjl:wu:jt:kjf;kja;wu

WISCONSIN LEGISLATIVE COUNCIL

s. 13.81, Stats.

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- (1) Replaced Rep. Mary Panzer, who was elected to the state Senate on September 21, 1993.
(2) Appointed to replace Rep. Peter Barca, who resigned from the Legislature on June 8, 1993.

WOMEN OFFENDERS IN THE CORRECTIONAL SYSTEM,
SPECIAL COMMITTEE ON

-29-

APPENDIX 2

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STUDY ASSIGNMENT: The Special Committee is directed to study the corrections system as it applies to women offenders, including a review of: (1) the demographics of women offenders, the nature of their offenses and the reasons for imprisonment of nonassaultive women offenders; (2) the availability of effective community-based corrections programs for women offenders; (3) the access of women offenders to intensive sanctions and other alternative corrections programs; (4) the extent to which women offenders are the full or primary caretakers of minor children and the need for a family visitation program; (5) issues related to special conditions of confinement for women offenders; and (6) the provision of training and employment opportunities for women offenders. The Committee is directed to report to the Legislative Council by March 1, 1993. [Based on 1991 Assembly Joint Resolution 20; and an April 9, 1992 letter from Reps. Mary Panzer and Rebecca Young.]

Established and Chairperson appointed by a May 28, 1992 mail ballot; Vice-Chairperson, Secretary and members appointed by a July 24, 1992 mail ballot.

20 MEMBERS: 3 Senators; 5 Representatives; 10 Public Members; and 2 Non-Voting Technical Advisory Members.

LEGISLATIVE COUNCIL STAFF: Don Salm, Senior Staff Attorney; Pam Shannon, Senior Staff Attorney; and Julie Terry, Support Staff.

(1) Originally appointed as an Assembly member; appointed to continue as a Senate member by a December 23, 1992 mail ballot.

(2) Appointed to replace Prof. Frank Remington, who resigned from the Committee on December 4, 1992, by a December 23, 1992 mail ballot.



Tommy G. Thompson
Governor

Patrick J. Fiedler
Secretary



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**State of Wisconsin
Department of Corrections**

January 11, 1993

TO: Division Administrators
Department of Corrections

FROM: Patrick J. Fiedler, Secretary
Department of Corrections

RE: ESTABLISHING A WORK GROUP ON FEMALE OFFENDER'S
ISSUES AND PROGRAMS

As a result of initial discussions with staff, I support the establishment of an on-going work group on Women Offender's Issues and Programs. I ask that you discuss the need for, composition of and general assignments for the work group at the Division Administrator's Meeting, which follows the January 25 Executive Staff Meeting. I also ask that you give me your ideas about the work group by February 1, 1993. I hope the following summary will serve as a starting point for your discussions.

Background: Over the past three months, Bill Grosshans and Anne Mikkelsen have been involved in working on programs for women offenders and preparing information for legislative committees on women in the correctional system. Recently, Bill and Anne discussed with me an idea to provide a focus for addressing women's issues and programs. It is believed that the appointment of an on-going work group would best utilize limited staff and other resources while allowing DOC to more comprehensively address sanctioning and serving women offenders. Because all Divisions share in women's programming and no Division has the staff resources to devote an FTE to women's issues, the work group approach allows each Division to use its expertise to carry out specific tasks.

The work group is needed because of the challenges which relate to planning for and serving women offenders. These challenges include:

- a) female offenders comprise a relatively small percentage (17%) of our field and institution population, when compared to men offenders,
- b) it is estimated that more than 80% of female offenders are mothers who are the primary caretakers for their children;
- c) moving or extensive travel is problematic for female

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offenders because the disruption it causes for their children, often resulting in the need for out-of-home care or child day care; and

- d) relationships with the human/social service and health care systems are critical when working with female offenders to provide access to specialized health care, child welfare services, parenting and nutrition education, mental health treatment and alcohol and drug abuse services.

WORK GROUP COMPOSITION: I am establishing a nine member work group comprised of two representatives from the Program Divisions (DIS, DAI and DPP) and one from DPS, DMS and the Office of Offender Classification. Collectively those selected should include staff with direct services, administrative and management responsibilities. Anne Mikkelson of DPP will chair the work group because of her recent experience in planning for services for female offenders and their children.

POSSIBLE ASSIGNMENTS: The work group should be charged with the responsibility of developing a five year plan for womens services. In conjunction, the group should consider addressing these issues as well as others you identify:

- o Gender specific programming in the community
- o Health care access and services
- o Classification systems as they relate to addressing the risks and needs of women offenders
- o Family issues and child care
- o Linkages with community resources for serving women offenders and their children

cc Michael J. Sullivan
Ave M. Bie
Anne Mikkelson

COMMITTEE MATERIALS

Staff Materials

1. Staff Brief 92-6, *Background on Wisconsin's Prison and Community Corrections System* (August 26, 1992).
2. MEMO NO. 1, *Description of Programs and Services Available to Women Offenders at Wisconsin Correctional Institutions and Centers* (August 21, 1992).
3. MEMO NO. 2, *Issues Raised to Date for Possible Special Committee Consideration* (October 1, 1992).
4. MEMO NO. 3, *Information Received in Response to Requests of Special Committee Members at the September 2, 1992 Meeting of the Committee* (October 2, 1992).
5. MEMO NO. 4, *Analysis of the Minnesota Community Corrections Act, Minnesota Statutory Provisions Relating to Programs for Women Offenders and the Rhode Island Community Correctional Program for Women Offenders* (October 29, 1992).
6. MEMO NO. 5, *Outline of Suggestions Made to Date for Possible Special Committee Consideration* (December 1, 1992).
7. MEMO NO. 6, *Women Offenders and Their Children: General Background Information on, and Materials Relating to, Women Offenders and Their Children; Discussion of, and Materials Relating to Other States' Statutory and Private Programs Relating to Pregnant Inmates, Mother and Infant or Mother and Child Residential Programs and Child Visitation Programs* (January 7, 1993).
8. MEMO NO. 7, *Recommendations of the Special Committee's Working Group on Incarcerated Women and Their Children* (February 3, 1993).
9. Memorandum from Robert Margolies, Department of Corrections' (DOC) Liaison to the Special Committee (November 23, 1992).

Other Materials

1. Two reports from the Bureau of Justice Statistics, U.S. Department of Justice, providing a national profile of women offenders: (a) Women in Prison (March 1991); and (b) Women in Jail 1989 (March 1992).

2. Report, *Female Offenders in the Community: An Analysis of Innovative Strategies and Programs*, by James Austin, Barbara Bloom and Trish Donahue, National Council on Crime and Delinquency, San Francisco (June 1992).

3. Excerpts from *The Female Offender: What Does the Future Hold?*, American Correctional Association (1990).

4. Summary by Attorney Ken Streit, Legal Assistance to Institutionalized Persons, University of Wisconsin (UW) Law School, of September 28, 1992 meeting with Hennepin County (Minneapolis, Minnesota) Public Defender Attorney Ann Remington and Legal Services Specialist Margaret Valkevich (undated).

5. Memorandum, *Intensive Sanctions for Women*, from Ken Streit, Julie Mann and Kelly Condon (October 2, 1992).

6. *Summary of Agency Projects*, ARC Community Services, Inc., Madison, Wisconsin (undated).

7. Letter from Robert Margolies, Legislative Liaison, DOC, responding to questions raised by Special Committee members during the October 20, 1992 tours of the Robert E. Ellsworth Correctional Center and the Milwaukee Women's Correctional Center (October 26, 1992).

8. The 1985 *Report of the Advisory Council on Women Offenders*, Division of Corrections, Wisconsin Department of Health and Social Services (April 1985).

9. *Report on NIC (National Institute of Corrections) Special Topic Session: Women Offenders Under Community Supervision* (undated).

10. *Women Offenders Planning Work Session: Proceedings of a Statewide Meeting to Develop Strategies to Meet the Needs of Women Offenders in Oregon* (August 1992).

11. *Oregon Department of Corrections White Paper: Oregon's Women Offenders* (October 1991).

12. Memorandum, *Response to Requests by the Special Committee for Information*, from Dick Verhagen, Deputy Administrator, Division of Adult Institutions, DOC (November 27, 1992).

13. Memorandum, *Response to Requests by the Special Committee for Information*, from William J. Grosshans, Administrator, Division of Intensive Sanctions, DOC (November 30, 1992).

14. Memorandum, *Response to Requests by the Special Committee for Information*, from Ken Sondalle, Administrator, Division of Program Services, DOC (December 4, 1992).

15. Memorandum, *Response to Requests by the Special Committee for Information*, from Eurial K. Jordan, Administrator, Division of Probation and Parole, DOC (December 4, 1992).

16. Memorandum, *Response to Requests by the Special Committee for Information*, from Cynthia A. Schoenicke, Deputy Administrator, Division of Management Services, DOC (December 7, 1992).

17. Memorandum, *Proposal for a Pilot Program Relating to New Types of "Phase I" Programs for the Division of Intensive Sanctions*, from Ken Streit, Faculty Advisor, Legal Assistance to Institutionalized Persons (LAIP) Program, UW Law School (undated).

18. Letter and attached recommendations from Martha K. Askins, Assistant State Public Defender and Chairperson of the Women in the Criminal Justice System Task Force of the Wisconsin Women's Network (November 25, 1992).

19. Issue of *In Sync* (Vol. 1, No. 3), published by the Office of Drug Programs, Division of Program Services, DOC (November 1992).

20. Memorandum, *Z Funding for Women Offenders*, from Ken Streit, Faculty Advisor, LAIP, UW Law School (undated).

21. *Materials Relating to the Need for Specific Statutory Changes in the Wisconsin Evidence Code With Reference to Battered Spouses and Laws in Other States on Defenses Available to Battered Spouses*, from Sue Ostoff, Executive Director, National Clearinghouse for the Defense of Battered Women, Philadelphia, Pennsylvania (undated).

22. Fiscal estimate, prepared by the Legislative Fiscal Bureau, of the cost of the council on women offenders created in WLCS: 75/2 (undated).

23. Memorandum, *Targeted Purchase of Service Pilots for Female Offenders*, from Ken Streit, Faculty Advisor, LAIP, UW Law School (March 26, 1993).

24. Letter and attachments from Robert Margolies, Legislative Liaison, DOC, relating to: (a) the rate of growth of women offenders as reflected in charts indicating the admissions and releases of women offenders from 1988-92; and (b) the telephone call procedures at Taycheedah Correctional Institution (February 25, 1993).

25. Report, *Parent-Child Situation (Taycheedah Correctional Institution): Preliminary Self-Reporting Survey*, from staff at Taycheedah Correctional Institution (March 23, 1993).