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WISCONSIN LEGISLATIVE COUNCIL
REPORT NO. 20 TO THE 1989 LEGISLATURE

LEGISLATION ON DRUG LAW ENFORCEMENT

1989 ASSEMBLY BILL 909, RELATING TO THE INVESTIGATION AND PROSECUTION OF, AND PENALTIES FOR VIOLATIONS OF, THE STATE'S DRUG LAWS, REPORTING OF INFANTS AND CHILDREN WITH CONTROLLED SUBSTANCES IN THEIR BODIES AND THE DESTRUCTION OF MARIJUANA

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Legislative Council Staff
March 7, 1990

One East Main St., Suite 401
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PART I

KEY PROVISIONS OF 1989 ASSEMBLY BILL 909

1. Authorizes a court to subpoena tax information to be used in a closed John Doe proceeding.

2. Provides grants for drug law enforcement officers for Door, Green, Marinette and Shawano Counties.

3. Encourages the use of forfeiture proceedings by increasing, from 50% to 67%, the percentage of the property forfeited under the Uniform Controlled Substances Act that the seizing agency may use. Also, exempts these forfeiture proceedings from court filing fees.

4. Authorizes a court to inquire into the source of property which a defendant offers as bail and to refuse to accept property as bail if it finds that there are reasonable grounds to believe the property will not reasonably assure the appearance of the defendant in court because it may be subject to forfeiture or for other reasons.

5. Gives the prosecutor in a criminal case the right to one peremptory substitution of judge.

6. Prohibits a person from soliciting another to commit a felony offense under the Uniform Controlled Substances Act and creates penalties for solicitation.

7. Prohibits the use of communication facilities to commit or advance the commission of a felony under the Uniform Controlled Substances Act and creates penalties for violations of the prohibition.

8. Establishes an alternative penalty formula for controlled substance felonies committed while possessing, using or threatening to use a dangerous weapon.

9. Revises the "drug paraphernalia law," created by 1989 Wisconsin Act 121.

10. Reinstates mandatory minimum sentences under the Uniform Controlled Substances Act.

11. Prohibits "money laundering" of the proceeds of a pattern of racketeering activity and creates penalties.

12. Requires reporting of an infant or child with any Schedule I or II controlled substances present in his or her body and requires the Department of Health and Social Services (DHSS) and county departments of social services to provide services, conduct education and training

programs and develop public information programs about infant and child drug addiction and abuse of drugs by children.

13. Designates marijuana as a noxious weed under the noxious weed law.

PART II

COMMITTEE AND SUBCOMMITTEE ACTIVITY

A. SPECIAL COMMITTEE ON DRUG LAW ENFORCEMENT

1. Assignment

The Legislative Council established the Special Committee on Drug Law Enforcement, at its March 15, 1989 meeting, based on a request from Representative Robert M. Thompson. The Committee was directed to:

...study the enforcement by local law enforcement agencies of those laws relating to the sale, possession and use of controlled substances, for the purpose of reviewing whether additional state assistance, including the revision of relevant laws and procedures and the provision of additional resources, is necessary or desirable to enhance the enforcement of such laws.

The members of the Special Committee, appointed at the March 15, 1989 Legislative Council meeting, included one Senator, four Representatives and eight Public Members. One additional Representative and one additional Senator were appointed by a May 19, 1989 mail ballot and two additional Senators were appointed at the June 14, 1989 Legislative Council meeting.

During 1989 and 1990, the Special Committee held eight meetings on the following dates:

April 20, 1989	September 20, 1989
May 8, 1989	November 1, 1989
July 25, 1989	January 18, 1990
August 25, 1989	February 5, 1990

All of the meetings were held in the State Capitol in Madison, with the exception of the August 25, 1989 meeting which was held in Fond du Lac.

2. Summary of Meetings

At the April 20, 1989 meeting, the Committee reviewed staff papers which described: (a) Wisconsin's drug laws and enforcement; (b) provisions of the Federal Anti-Drug Abuse Act; and (c) proposals relating to drug law enforcement which were then pending before the Legislature. The Special Committee also heard from invited speakers, including Attorney General Donald J. Hanaway, Gary Hamblin, Director of the Narcotics and

Dangerous Drugs Bureau, Department of Justice (DOJ), other DOJ officials and officers from various local law enforcement agencies. The speakers provided background information on the status of drug law enforcement efforts throughout the state, identified areas of the law which they believed could be modified to enhance drug law enforcement efforts and discussed the need for providing additional resources to local law enforcement.

At the May 8, 1989 meeting, the Committee discussed the requirement in the Wisconsin Constitution that the clear proceeds of all fines and forfeitures be deposited in the school fund. The Special Committee heard testimony from Theodore Meekma, Executive Director, Office of Justice Assistance (OJA), regarding Wisconsin's anti-drug abuse strategy and discussed the OJA's allocation of Federal Anti-Drug Abuse Act grant money. The Special Committee also received testimony from John Killian, Administrator, Division of Law Enforcement Services (DLES), DOJ, who discussed the need for more funding for the State Crime Laboratory, and Dennis Hanson, Director, Training and Standards Bureau, DLES, DOJ, who discussed the DOJ's then-pending law enforcement officer training proposal. The Special Committee also heard testimony from Special Committee Member James C. Babler, Barron County District Attorney, who discussed problems related to drug law enforcement from the perspective of a district attorney.

At the July 25, 1989 meeting, the Committee heard from James Lee, Jr., and Roosevelt Smith, inmates of, and Fred Mueller, a guard at, the Winnebago Drug Abuse Correction Center. These speakers discussed the need for drug offenders to obtain drug abuse treatment, their views on the effectiveness of different drug abuse treatment methods and the effectiveness of stiff penalties in deferring drug crimes.

At the August 25, 1989 meeting, the Special Committee discussed the items relating to drug law enforcement which were included in 1989 Wisconsin Act 31 (the 1989-91 Biennial Budget Act). The Special Committee received testimony from undercover drug enforcement officers who work in the Fond du Lac area regarding the extent of the drug problem in the area and recommendations for Committee action. The Committee also received testimony from a district attorney, a chief of police, the coordinator of a local law enforcement group and a regional supervisor from the Department of Criminal Investigation in the DOJ on these topics.

At the September 20, 1989 meeting, the Special Committee received testimony from Eurial K. Jordan, Director, Bureau of Community Corrections, DHSS, regarding the use of probation and parole clients in undercover law enforcement activities. The Special Committee reviewed materials prepared by the staff and began to develop its recommendations. The Special Committee requested more information on several topics and directed staff to prepare draft legislation on other topics.

At the November 1, 1989 meeting, the Special Committee reviewed materials prepared by the staff and continued to develop its recommendations. The Special Committee also received testimony from representatives of the DOJ and the Department of Revenue (DOR) regarding tracing assets derived from illicit drug activities, and from the DHSS regarding "shock incarceration" programs.

At the January 18, 1990 meeting, the Special Committee discussed action taken by the Legislature during the October 1989 Special Session on drugs. The Special Committee noted that several items which it had been considering had been passed by the Legislature during the Special Session. The Special Committee heard testimony regarding the formula used by the OJA in allocating federal anti-drug abuse grant funds. The Special Committee reviewed the recommendations that it had been considering which were also discussed during legislative deliberations on the October 1989 Special Session bills but were not included in those bills, as passed by the Legislature. The Special Committee requested further information and directed staff to prepare draft legislation on several topics.

At the February 5, 1990 meeting, the Committee took final action on the bill drafts which were consolidated into WLCS: 43/1 (the draft that became 1989 Assembly Bill 909).

3. Committee and Council Votes

At its February 5, 1990 meeting, the Special Committee on Drug Law Enforcement recommended the introduction of the 14 separate drafts which were consolidated into WLCS: 43/1 (the draft that became 1989 Assembly Bill 909). Appendix 1 lists the votes on each of the 14 separate drafts.

At its February 15, 1990 meeting, the Legislative Council voted to introduce WLCS: 43/1 by a vote of Ayes, 16 (Sens. Risser, Chilsen, Ellis, Helbach, Kreul, Moen and Strohl; and Reps. Loftus, Panzer, Clarenbach, Gruszynski, Kunicki, Prosser, Schneider, Tregoning and Zien); Noes, 1 (Rep. M. Coggs); and Absent, 4 (Sens. Czarnezki, Davis and George; and Rep. Hauke).

B. SUBCOMMITTEE ON PROSECUTION OF DRUG LAW VIOLATIONS OF THE SPECIAL COMMITTEE ON DRUG LAW ENFORCEMENT

1. Assignment

To assist the Special Committee on Drug Law Enforcement, the Chairperson of the Special Committee established the Subcommittee on Prosecution of Drug Law Violations on July 25, 1989. The Subcommittee was directed to:

...review issues relating to (1) the need for additional resources, or revisions of current procedures or state laws, to strengthen the prosecution system and (2) the need for further coordination between prosecutors and law enforcement officials and between municipalities and counties.

The Subcommittee was directed to report its recommendations to the Special Committee on Drug Law Enforcement.

The members of the Subcommittee on Prosecution of Drug Law Violations, appointed on July 25, 1989 by the Chairperson of the Special Committee, consisted of one Senator, one Representative and three Public Members. During 1989, the Subcommittee held two meetings, on the following dates at the following locations:

September 19, 1989 (Milwaukee)
October 27, 1989 (Eau Claire)

2. Summary of Meetings

At the September 19, 1989 meeting, the Subcommittee received testimony from the Chief Judge of the Felony Division of Milwaukee County, the district attorneys of seven southeastern Wisconsin counties and the chief Milwaukee public defender. The speakers discussed the extent of the drug problem in southeastern Wisconsin, described the current system of drug law prosecution and made recommendations for statutory changes to enhance prosecution of drug law offenders and make the court system operate more efficiently.

At the October 27, 1989 meeting, the Subcommittee received testimony from an Eau Claire County judge, the district attorneys of Eau Claire and St. Croix Counties, the Regional Supervisor of the Division of Criminal Investigation, DOJ, and a private attorney in Eau Claire who handles cases for the Public Defender's office. The speakers discussed the extent of the drug problem in western Wisconsin and the impact of the Twin Cities on the drug problem in that area. The speakers made recommendations for changes in statutes to enhance prosecution of drug law offenders and to enhance the ability of law enforcement to apprehend offenders.

Due to the intercession of the October 1989 Special Session on drugs and time constraints, the Subcommittee did not report separate findings to the Special Committee.

PART III

DESCRIPTION OF 1989 ASSEMBLY BILL 909

A. BACKGROUND

The Special Committee on Drug Law Enforcement was established in response to growing concern on the part of the public and the Legislature over drug abuse and its effects on society. Abuse of illegal drugs is believed to be a serious social problem in Wisconsin, as in other states, with significant economic, criminal justice, health and moral dimensions. There is a perception that drug use and abuse costs Wisconsin citizens millions of dollars a year, causes mental anguish to individuals and families, and is the root of a great deal of direct and related criminal activity, including violent crime. Concurrently, the waging of a "war on drugs" has been a top priority of the federal government, which has emphasized that drug abuse must be combatted at every level of government in order to be effective.

The Special Committee on Drug Law Enforcement broadly examined the enforcement and prosecution of controlled substances laws in Wisconsin. This comprehensive review was considered necessary because, prior to the establishment of the Special Committee, numerous bills relating to various, often interrelated aspects of drug law enforcement had been introduced in the 1989-90 Session of the Legislature.

Midway through the Special Committee's work, a special session of the Legislature was convened by the Governor to take up a variety of drug-related legislation, including law enforcement, education, prevention and rehabilitation proposals. As a result, a number of items previously considered by the Special Committee were enacted into law.

Following the completion of gubernatorial action on the special session legislation, the Special Committee recommenced its deliberations. The Special Committee concluded that certain additional measures were needed to increase the efficiency and effectiveness of enforcement and prosecution of controlled substances laws in Wisconsin and developed legislation, described below, to meet these needs.

B. MAJOR PROVISIONS

1. Investigation

a. Release of Tax Information for a John Doe Proceeding

Under current law, a court may not subpoena tax information from the DOR on its own motion for purposes of John Doe proceedings unless the

proceedings are held in open court. Usually, John Doe proceedings are not held in open court.

Under the Bill, upon receiving a subpoena issued as part of a John Doe proceeding, the DOR shall allow the court, or any law enforcement officer or district attorney specified in the court order, to examine returns and claims specified in the order. Under the Bill, a court may issue such a subpoena only upon making a finding, based upon its review of the entire record, that information available from the DOR may provide evidence of a criminal violation. Under the Bill, the information obtained pursuant to the subpoena may be used as evidence in the John Doe proceeding or in any court action resulting from the John Doe proceeding.

b. Grants for Drug Law Enforcement Officers

Currently, the DOJ provides grants to cities and counties for the payment of the costs of compensating certain drug law enforcement officers. 1989 Wisconsin Act 121 provided grants for drug law enforcement officers serving all but four Wisconsin counties, either directly or through their multijurisdictional enforcement groups (MEG's).

The Bill appropriates \$55,200 general purpose revenue (GPR) for fiscal year 1989-90 and \$165,200 GPR for fiscal year 1990-91 to provide grants for drug law enforcement officers for Door, Green, Marinette and Shawano Counties. The Bill provides that the officers involved must work on MEG activities.

2. Forfeitures

a. Retention of Forfeiture by Seizing Agency

Article X, section 2, of the Wisconsin Constitution, provides, in part, that all moneys and the clear proceeds of all property that may accrue to the state by forfeiture shall be deposited into the state school fund. Under the current statutes, when property, other than money, is forfeited for a violation of a controlled substances law, the agency which seized the property may use 50% of the amount forfeited to pay proper expenses of the forfeiture and sale proceedings, including expenses of seizure, maintenance of custody, advertising, court costs and reasonable costs of investigation and prosecution. The remaining amount must be deposited in the state school fund.

The Bill changes from 50% to 67% the percentage of forfeited property which the seizing agency may use for payment of expenses of the proceedings for forfeiture and sale. This change is based on State v. De Lano, 80 Wis. 259, 49 N.W. 808 (1891), in which the Wisconsin Supreme Court upheld a statute which provided that 2/3rds of the amount of a fine would be retained by the law enforcement agency and 1/3rd would be deposited into the school fund.

b. Exemption from Court Filing Fee

Under current law, a civil action must be brought to cause the forfeiture of any property seized by law enforcement personnel under the Uniform Controlled Substances Act. Also, under current law, any person who commences a civil action in the circuit court must pay a \$60 filing fee to the clerk of court. Unless a specific exemption is provided in the statutes, governmental units must pay this filing fee. The Bill creates an exemption from the \$60 filing fee for an action brought by a district attorney to cause the forfeiture of any property seized under the Uniform Controlled Substances Act.

3. Inquiry Into the Source of Bail

Under current law, a judge has no authority to inquire into the source of money which a defendant offers as bail. The Bill provides that a court may conduct an inquiry upon its own motion, and shall conduct an inquiry if requested to do so by the district attorney. The purpose of the provision is to help ensure that the bail posted will reasonably assure the appearance of the defendant in court.

The Bill provides that the court may not accept any property as bail if there are reasonable grounds to believe the property is subject to forfeiture under the Uniform Controlled Substances Act, the Wisconsin Organized Crime Control Act or general provisions related to the forfeiture of property derived from crimes or vehicles used in crimes. Under the Bill, the court may not accept property as bail if it finds that there are reasonable grounds to believe that the property is subject to forfeiture under one of the laws just described or that, for any other reason, the property will not reasonably assure the appearance of the defendant in court. Such an inquiry may be held at any time. If a defendant is released on bail which is subsequently found to be unacceptable by the court, the defendant must post acceptable property.

4. Judge Substitution

Currently, each party in a civil case, and only the defendant in a criminal case, has the right to one peremptory substitution of judge, except that there are additional substitutional rights in certain cases where there is an appeal or if the judge who handles a preliminary hearing is assigned to handle the trial.

The Bill gives the prosecutor in a criminal case the same right for one peremptory substitution of judge that the defendant has. Thus, under the Bill, the prosecutor may have a judge replaced without having to show a reason for the substitution.

The Bill includes a two-year sunset date on this provision. Specifically, the prosecutor will have the right to one peremptory substitution for actions commenced on the effective date of the act and before the first month commencing two years after the effective date of the act.

5. Penalties

The Bill creates new penalties related to violations of the Uniform Controlled Substances Act, revises existing penalties and creates a new prohibition relating to money laundering involving the proceeds of any racketeering activity:

a. Under current law, a person who solicits another to commit any felony may be fined not more than \$10,000 or imprisoned for not more than five years, or both. The Bill provides that a person who solicits another to commit a felony offense under the Uniform Controlled Substances Act is subject to the same penalties as if he or she committed the crime. The Bill also clarifies a reference for the penalties applicable to persons who conspire to commit dangerous drug crimes and who are repeat dangerous drug crime offenders.

b. The Bill creates penalties for using the mail or a telephone, radio or other communication facility to commit or advance the commission of a felony under the Uniform Controlled Substances Act. Violators may be fined not more than \$15,000 or imprisoned for not more than five years, or both.

c. The Bill provides that the maximum and minimum periods of imprisonment for felony violations of the Uniform Controlled Substances Act are doubled if the felony is committed while possessing, using or threatening to use a dangerous weapon. The Bill establishes this penalty enhancement as an alternative to current law, under which a person who commits any such crime while possessing, using or threatening to use a dangerous weapon may have his or her maximum period of imprisonment increased by six months, three years, four years or five years, depending upon the severity of the underlying crime. The Bill provides that the prosecutor may seek enhancement under the current or proposed formula, but not both.

d. The Bill revises the "drug paraphernalia law," created by 1989 Wisconsin Act 121, which restricts the manufacture, delivery, possession and advertising of drug paraphernalia, to delete the word "solely" from the relevant definitions and offenses. Under current law, the definition of "drug paraphernalia" is limited to items which are used, or "solely" intended for use, in a controlled substances offense. Under the Bill, items are covered by the drug paraphernalia law if they are intended for use in controlled substances offenses, regardless if that is the sole intention.

e. The Bill reinstates mandatory minimum sentences under the Uniform Controlled Substances Act. 1989 Wisconsin Act 121 made the minimum sentences under the Uniform Controlled Substances Act presumptive, rather than mandatory, minimum sentences. Under 1989 Wisconsin Act 121, a court may impose a lesser sentence or place a person on probation if it finds that the best interests of the community will be served and the public will not be harmed and if it states its reasons on the record. The Bill removes this language and restores the mandatory minimum sentences.

f. The Bill prohibits "money laundering" of the proceeds of a pattern of racketeering activity. Currently, "racketeering activity" includes the attempt to commit, conspiracy to commit, or the commission of, any felony violation of the Uniform Controlled Substances Act, as well as certain felony violations of other laws. Currently, the Wisconsin Organized Crime Control Act prohibits certain uses of the proceeds derived from a pattern of racketeering activity. Any person who violates these prohibitions is guilty of a Class C felony which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both. In lieu of the \$10,000 fine, a person may be fined up to two times the gross value of the gain the person made or the loss the person caused through the prohibited activity.

g. The Bill creates a new provision which prohibits the laundering of money derived from a pattern of racketeering activity. Specifically, the Bill provides that no person may knowingly conduct, through a financial institution, any financial transaction involving the proceeds of a pattern of racketeering activity if the person:

(1) Intends to promote the carrying on of the racketeering activity by conducting the financial transaction;

(2) Knows that the financial transaction is designed to conceal or disguise the nature, location, source, ownership or control of the proceeds; or

(3) Knows that the financial transaction is designed to avoid a financial transaction reporting requirement of federal or state law.

Any person who violates the newly-created money laundering provisions is guilty of a Class C felony and subject to the penalties described above.

6. Drug Abuse Reporting

The Bill requires physicians, nurses, coroners, medical examiners, other medical professionals, alcohol or other drug abuse counselors and emergency medical technicians to report to their county department of social services if they have reason to believe that an infant or child seen in the course of their professional duties has any Schedule I or II

controlled substance present in his or her body, unless the substance was dispensed or prescribed to the infant or child as authorized by statute. Failure to report subjects the person to the same penalties that currently apply to failure to report cases of suspected child abuse or neglect: a fine of not more than \$1,000 or imprisonment for not more than six months, or both.

The Bill also requires county departments of social services to take the same actions to provide appropriate services to an infant or child when it receives a report of any Schedule I or II controlled substance present in the body of the infant or child that it must currently take when it receives a report of child abuse or neglect.

Also, the Bill expands current requirements that the DHSS conduct education and training programs designed to encourage reporting, prevention and treatment of child abuse and neglect, develop public information programs about child abuse and neglect and maintain statistics on child abuse and neglect. Under the Bill, all of these requirements are expanded to include the subject of infant and child drug addiction and abuse of drugs by children.

7. Noxious Weeds

The Bill expands the weeds covered by the current "noxious weed law" to include marijuana. Under current law, the owner or occupant of land is required to destroy all noxious weeds on the land. The person in charge of public lands shall destroy noxious weeds on the public lands.

In addition, the Bill directs the sheriff to instruct persons responsible for the destruction of noxious weeds of methods of destroying marijuana that will allow preservation of evidence to allow any necessary criminal investigation to proceed.

JRH:MM:ksm:kja;kja;jaj

COMMITTEE VOTES ON APPROVAL OF RECOMMENDATIONS

This Appendix lists the votes of the Special Committee on Drug Law Enforcement on each of the 14 separate drafts which, following affirmative votes for recommendation, were combined into one draft, WLCS: 43/1, for purposes of presentation to the Legislative Council. The information is organized according to the subject area which the separate drafts address. All of the votes were taken at the February 5, 1990 meeting of the Special Committee.

A. INVESTIGATION

1. WLCS: 27/1, relating to release of tax information as part of a John Doe proceeding related to the enforcement of the Uniform Controlled Substances Act

The Special Committee amended WLCS: 27/1 and approved the draft, as amended, for recommendation to the Legislative Council by a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 1 (Public Member Hirsch); and Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer).

2. LRB-4917/1, relating to additional funding for grants to drug law enforcement officers for Door, Green, Marinette and Shawano Counties

The Committee approved LRB-4917/1 for recommendation to the Legislative Council by a vote of Ayes, 12 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber and Lehman; and Public Members Babler, Chizek, Hirsch, Johnson, Miescki and Pray); Noes, 1 (Rep. Schneiders); Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer); and Not Voting, 1 (Public Member Kenney).

B. FORFEITURES

1. WLCS: 951/1, relating to increasing the amount of property forfeited under the Uniform Controlled Substances Act which the seizing agency may use

The Committee approved WLCS: 951/1 for recommendation to the Legislative Council by a vote of Ayes, 14 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Hirsch, Johnson, Kenney, Miescki and Pray); Noes, 0; and Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer).

2. WLCS: 953/1, relating to an exemption from court fees for an action brought by district attorneys to cause the forfeiture of property fees under the Uniform Controlled Substances Act

The Committee approved WLCS: 953/1 for recommendation to the Legislative Council by a vote of Ayes, 14 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Hirsch, Johnson, Kenney, Miescki and Pray); Noes, 0; and Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer).

C. INQUIRY INTO THE SOURCE OF BAIL

WLCS: 20/1, relating to conducting an inquiry into the source of property offered as bail and not accepting certain property as bail

The Committee approved WLCS: 20/1 for recommendation to the Legislative Council by a vote of Ayes, 14 (Sens. Burke and Te Winkle; Reps. Thompson, Lautenschlager, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 1 (Public Member Hirsch); and Absent, 5 (Sens. Buettner, Roshell and Weeden; Rep. Hubler; and Public Member Meyer).

D. JUDGE SUBSTITUTION

WLCS: 18/1, relating to substitution of a judge in a criminal action

The Committee approved WLCS: 18/1 for recommendation to the Legislative Council by a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 1 (Public Member Hirsch); and Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer).

The Committee also agreed, by unanimous consent, to create a two-year sunset date on the recommended judge substitution provision.

E. PENALTIES

1. LRB-4794/2, relating to solicitation to commit controlled substances offenses and providing penalties

The Committee approved LRB-4794/2 for recommendation to the Legislative Council by a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 1 (Public Member Hirsch); and Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer).

2. WLCS: 13/1, relating to the use of a communication facility in felonies involving controlled substances and providing penalties

The Committee approved WLCS: 13/1 for recommendation to the Legislative Council on a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 1 (Public Member Hirsch); and Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer).

3. LRB-4675/1 (1989 Senate Bill 424), relating to using a dangerous weapon to commit a felony involving a controlled substance and providing penalties

The Committee approved LRB-4675/1, previously introduced as 1989 Senate Bill 424, for recommendation to the Legislative Council on a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 1 (Public Member Hirsch); and Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer).

4. LRB-4674/1 (1989 Senate Bill 423), relating to drug paraphernalia

The Committee approved LRB-4674/1, previously introduced as 1989 Senate Bill 423, for recommendation to the Legislative Council on a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 0; and Absent, 7 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Members Hirsch and Meyer).

5. LRB-4676/5 (1989 Senate Bill 426), relating to minimum sentences for controlled substances offenses

The Committee approved LRB-4676/5, previously introduced as 1989 Senate Bill 426, for recommendation to the Legislative Council by a vote of Ayes, 12 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney and Miescki); Noes, 2 (Public Members Hirsch and Pray); and Absent, 6 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Member Meyer).

6. WLCS: 35/1, relating to financial transactions involving the proceeds of unlawful activity

The Committee approved WLCS: 35/1 for recommendation to the Legislative Council by a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 0; and Absent, 7 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Members Hirsch and Meyer).

F. DRUG ABUSE REPORTING

WLCS: 966/2, relating to reporting of infants and children with controlled substances in their bodies and providing a penalty

The Committee approved WLCS: 966/2 for recommendation to the Legislative Council on a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 0; and Absent, 7 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Members Hirsch and Meyer).

G. NOXIOUS WEEDS

WLCS: 5/2, relating to designating marijuana as a noxious weed

The Committee approved WLCS: 5/2 for recommendation to the Legislative Council by a vote of Ayes, 13 (Sens. Burke and Te Winkle; Reps. Thompson, Goetsch, Huber, Lehman and Schneiders; and Public Members Babler, Chizek, Johnson, Kenney, Miescki and Pray); Noes, 0; and Absent, 7 (Sens. Buettner, Roshell and Weeden; Reps. Lautenschlager and Hubler; and Public Members Hirsch and Meyer).

COMMITTEE MATERIALS

Staff Materials

1. Staff Brief 89-1, Wisconsin's Drug Laws and Enforcement (April 13, 1989).
2. Information Memorandum 89-1, Provisions of Anti-Drug Amendment Act of 1988 Relating to Drug Law Enforcement (April 12, 1989).
3. MEMO NO. 1, Recent Legislative Enactments and Proposals Relating to Drug Law Enforcement (April 13, 1989; Revised July 18, 1989).
4. MEMO NO. 2, Information on the School Fund and Statutory Surcharges on Fines and Forfeitures (May 1, 1989).
5. MEMO NO. 3, Information on the Principal of the Common School Fund and Revenues Generated by Statutory Surcharges on Fines and Forfeitures (June 6, 1989).
6. MEMO NO. 4, Information on the Iowa Law Enforcement Intelligence Network (LEIN) (October 25, 1989).
7. MEMO NO. 5, Treatment by the October 1989 Special Session on Drugs of Issues Discussed by the Special Committee on Drug Law Enforcement and Its Subcommittee on Prosecution of Drug Law Violations (January 8, 1990).
8. Discussion Paper 89-2, Recommendations for Changes in Laws, Resources and Programs Related to Drug Law Enforcement (September 14, 1989).
9. Memorandum to Members of the Conference Committee on Special Session Assembly Bill 9, Summary of Conference Report on October 1989 Special Session Assembly Bill 9, Relating to Penalties for Drug Law Violations and Other Miscellaneous Provisions (December 21, 1989).
10. Memorandum to Interested Legislators and Other Interested Persons, Summary of 1989 Wisconsin Act 65, Relating to Establishing a Crime Laboratory in Wausau and Establishing an Additional Circuit Court Branch in Milwaukee (January 8, 1990).

11. Memorandum to Members of the Assembly Special Committee on Drug Enforcement, Education and Treatment, Description of Proposals Relating to Drug Penalties (October 16, 1989).

12. Memorandum to Members of the Assembly Special Committee on Drug Enforcement, Education and Treatment, Description of Proposals Relating to Drug Law Enforcement Programs (October 18, 1989).

Other Materials

1. Outline of testimony, "Drug Law Enforcement," by Chief David Gorski, Appleton Police Department and Wisconsin Chiefs of Police Association, Appleton (April 20, 1989).

2. Outline of testimony, Sergeant James Waid, Outagamie Sheriff's Department and Wisconsin Sheriffs and Deputy Sheriffs Association, Appleton (April 20, 1989).

3. Organizational chart, "Department of Justice" (undated) (distributed by Attorney General Donald Hanaway at the April 20, 1989 meeting).

4. Letter to Theodore Meekma, Executive Director, Office of Justice Assistance, from Karl A. Hansen, Chief of Police, Racine (April 19, 1989).

5. Memorandum from Theodore Meekma, Executive Director, Office of Justice Assistance, Summary of Wisconsin's FFY-89 Anti-Drug Abuse Strategy (May 8, 1989).

6. Transcript of Basic Law Enforcement Officer Course Completion, DJ-LE 302 (Revised 10/87) (distributed by Dennis Hanson, Director, Training and Standards Bureau, Division of Law Enforcement Services, at the May 8, 1989 meeting).

7. Letter with attachments from Attorney General Donald Hanaway (May 4, 1989).

8. Office of Justice Assistance, Anti-Drug Abuse Strategy for 1989, A Comprehensive Plan of Action for Achieving a Drug-Free Wisconsin (February 1989).

9. Letter to Governor Tommy G. Thompson from Representative Marlin Schneider (May 8, 1989).

10. Letter with attachments to Opinion Leaders from the Alliance for a Drug-Free Wisconsin (August 4, 1989).

11. Policy statement on undercover activities of persons on probation and parole, Division of Corrections, Bureau of Community Corrections, Department of Health and Social Services (DHSS) (May 1, 1984) (distributed at the August 25, 1989 meeting).

12. Memorandum to Law Enforcement Officials from Donald Clark, Regional Chief, Eastern Region, Division of Corrections, DHSS, Policy Regarding Home Searches and Use of Corrections Clients for Undercover Activities (July 21, 1989).

13. Memorandum to Bureau of Community Corrections staff from Eurial K. Jordan, Director, Bureau of Community Corrections, Division of Corrections, DHSS, Client Undercover Activities (April 18, 1989).

14. Letter with attachments from Stephen E. Bablitch, Administrator, Division of Corrections, DHSS (October 19, 1989).

15. Letter from Mark Bugher, Secretary, Department of Revenue (October 13, 1989).

16. Letter from Attorney General Donald Hanaway (October 27, 1989).

17. "How America Lost Its First Drug War," Insight (November 20, 1989).

18. Letter with attachments from Theodore Meekma, Office of Justice Assistance (November 10, 1989).

19. Letter from Theodore Meekma, Office of Justice Assistance (November 10, 1989).

20. Letter from Mark Bugher, Secretary, Department of Revenue (November 8, 1989).

21. Memorandum from Theodore Meekma, Office of Justice Assistance, Policy on Distribution of Anti-Drug Abuse Funds (January 18, 1990).

22. Letter with attachments from Attorney General Donald Hanaway (January 31, 1990).

23. Letter from Mark Bugher, Secretary, Department of Revenue (February 2, 1990).

24. "Is It Too Easy to Switch Judges? Our View: Law Offers Crucial Safeguard," Milwaukee Journal (October 22, 1989).

25. Letter from Ronald R. Fiedler, Secretary, Department of Transportation (January 29, 1990).

26. Letter from Carolyn Cain, President, Wisconsin Educational Media Association (February 3, 1990).