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(FORM UPDATED: 08/11/2010)

# WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

## 2005-06

(session year)

## Senate

(Assembly, Senate or Joint)

## Committee on Judiciary, Corrections and Privacy...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                      (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (July 2012)

## Senate

### Record of Committee Proceedings

#### **Committee on Judiciary, Corrections and Privacy**

##### **Senate Bill 88**

Relating to: a prohibition against using state funds or resources or federal funds to provide or to facilitate the provision of hormonal therapy or sexual reassignment surgery to alter the appearance of a prisoner or forensic patient so that the prisoner or forensic patient appears more like the opposite gender.

By Senators Kanavas, S. Fitzgerald, Zien, Stepp, Grothman, Darling, Leibham, A. Lasee, Olsen, Cowles, Reynolds, Brown, Lazich and Roessler; cosponsored by Representatives Suder, Gundrum, Montgomery, Kleefisch, Van Roy, Gunderson, Lothian, Pettis, Nischke, Kestell, Nass, Hines, Gronemus, Kerkman, Bies, Vos, Petrowski, Honadel, Wood, Strachota, Jeskewitz, F. Lasee, Vrakas, Albers, Ballweg, Hahn, Kreibich, Moulton, Ott, Kaufert, Mursau and Musser.

February 28, 2005      Referred to Committee on Judiciary, Corrections and Privacy.

April 4, 2005            **PUBLIC HEARING HELD**

Present:    (4)      Senators Zien, Roessler, Grothman and Taylor.  
Absent:    (1)      Senator Risser.

##### Appearances For

- Mike Richards, Madison — Senator Kanavas' Office
- Scott Suder — Representative, 69th Assembly District
- Mark Gundrum, Madison — Representative

##### Appearances Against

- None.

##### Appearances for Information Only

- David Burnett, Madison — Department of Corrections

##### Registrations For

- None.

##### Registrations Against

- None.

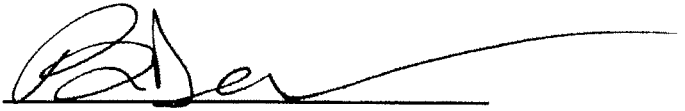
April 5, 2005            EXECUTIVE SESSION - POLLING

Moved by Senator Zien that **Senate Bill 88** be recommended for passage.

Ayes: (4) Senators Zien, Roessler, Grothman and  
Taylor.

Noes: (1) Senator Risser.

PASSAGE RECOMMENDED, Ayes 4, Noes 1

A handwritten signature in black ink, appearing to read "B. Deschane", written over a horizontal line.

Brian Deschane  
Committee Clerk

**Senate Bill 21**

Relating to: county ordinances regarding drug paraphernalia or the possession of marijuana.

By Senator Kedzie; cosponsored by Representatives Nass, Gundrum, Musser, Kestell, Nischke, Townsend, Hines, Staskunas, Davis, Ott, Hundertmark, Hahn and Albers.

- Moved by Senator Zien that Senate Bill 21 be recommended for PASSAGE:

Aye \_\_\_\_\_ No \_\_\_\_\_

**Senate Bill 99**

Relating to: the time period for service of a responsive pleading.

By Senator Kanavas; cosponsored by Representatives Gielow, J. Fitzgerald, Hines, Vos and Pridemore.

- Moved by Senator Zien that Assembly Bill 92 be recommended for CONCURRENCE:

Aye \_\_\_\_\_ No \_\_\_\_\_

**Senate Bill 88**

Relating to: a prohibition against using state funds or resources or federal funds to provide or to facilitate the provision of hormonal therapy or sexual reassignment surgery to alter the appearance of a prisoner or forensic patient so that the prisoner or forensic patient appears more like the opposite gender.

By Senators Kanavas, S. Fitzgerald, Zien, Stepp, Grothman, Darling, Leibham, A. Lasee, Olsen, Cowles, Reynolds, Brown, Lazich and Roessler; cosponsored by Representatives Suder, Gundrum, Montgomery, Kleefisch, Van Roy, Gunderson, Lothian, Pettis, Nischke, Kestell, Nass, Hines, Gronemus, Kerkman, Bies, Vos, Petrowski, Honadel, Wood, Strachota, Jeskewitz, F. Lasee, Vrakas, Albers, Ballweg, Hahn, Kreibich, Moulton, Ott, Kaufert, Mursau and Musser.

- Moved by Senator Zien that Senate Bill 88 be recommended for PASSAGE:

Aye \_\_\_\_\_ No \_\_\_\_\_

GLENN GROTHMAN

**Senate Bill 21**

Relating to: county ordinances regarding drug paraphernalia or the possession of marijuana.

By Senator Kedzie; cosponsored by Representatives Nass, Gundrum, Musser, Kestell, Nischke, Townsend, Hines, Staskunas, Davis, Ott, Hundertmark, Hahn and Albers.

- Moved by Senator Zien that Senate Bill 21 be recommended for PASSAGE:

Aye ✓ No \_\_\_\_\_

**Senate Bill 99**

Relating to: the time period for service of a responsive pleading.

By Senator Kanavas; cosponsored by Representatives Gielow, J. Fitzgerald, Hines, Vos and Pridemore.

- Moved by Senator Zien that Assembly Bill 92 be recommended for CONCURRENCE:

Aye ✓ No \_\_\_\_\_

**Senate Bill 88**

Relating to: a prohibition against using state funds or resources or federal funds to provide or to facilitate the provision of hormonal therapy or sexual reassignment surgery to alter the appearance of a prisoner or forensic patient so that the prisoner or forensic patient appears more like the opposite gender.

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- Moved by Senator Zien that Senate Bill 88 be recommended for PASSAGE:

Aye \_\_\_\_\_ No ✓

FRED RISSER

**Senate Bill 21**

Relating to: county ordinances regarding drug paraphernalia or the possession of marijuana.

By Senator Kedzie; cosponsored by Representatives Nass, Gundrum, Musser, Kestell, Nischke, Townsend, Hines, Staskunas, Davis, Ott, Hundertmark, Hahn and Albers.

- Moved by Senator Zien that Senate Bill 21 be recommended for PASSAGE:

Aye     X     No \_\_\_\_\_

**Senate Bill 99**

Relating to: the time period for service of a responsive pleading.

By Senator Kanavas; cosponsored by Representatives Gielow, J. Fitzgerald, Hines, Vos and Pridemore.

- Moved by Senator Zien that Assembly Bill 92 be recommended for CONCURRENCE:

Aye     X     No \_\_\_\_\_

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- Moved by Senator Zien that Senate Bill 88 be recommended for PASSAGE:

Aye     X     No \_\_\_\_\_

CAROL ROESSLER

**Senate Bill 21**

Relating to: county ordinances regarding drug paraphernalia or the possession of marijuana.

By Senator Kedzie; cosponsored by Representatives Nass, Gundrum, Musser, Kestell, Nischke, Townsend, Hines, Staskunas, Davis, Ott, Hundertmark, Hahn and Albers.

- Moved by Senator Zien that Senate Bill 21 be recommended for PASSAGE:

Aye X No \_\_\_\_\_

**Senate Bill 99**

Relating to: the time period for service of a responsive pleading.

By Senator Kanavas; cosponsored by Representatives Gielow, J. Fitzgerald, Hines, Vos and Pridemore.

- Moved by Senator Zien that Assembly Bill 92 be recommended for CONCURRENCE:

Aye \_\_\_\_\_ No X

**Senate Bill 88**

Relating to: a prohibition against using state funds or resources or federal funds to provide or to facilitate the provision of hormonal therapy or sexual reassignment surgery to alter the appearance of a prisoner or forensic patient so that the prisoner or forensic patient appears more like the opposite gender.

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- Moved by Senator Zien that Senate Bill 88 be recommended for PASSAGE:

Aye X No \_\_\_\_\_

LENA TAYLOR





DS

**Jim Doyle**  
Governor

**Matthew J. Frank**  
Secretary



**State of Wisconsin**  
**Department of Corrections**

**Mailing Address**

3099 E. Washington Ave.  
Post Office Box 7925  
Madison, WI 53707-7925  
Telephone (608) 240-5000  
Fax (608) 240-3300

October 19, 2004

Representative Dean Kaufert  
Wisconsin State Legislature  
55<sup>th</sup> Assembly District  
P.O. Box 8952  
State Capitol  
Madison, WI 53708-8952

Dear Representative Kaufert:

Thank you for your letter in which you express concern over the Department of Corrections policy regarding the treatment of prisoners who have been diagnosed with Gender Identity Disorder (GID). DOC has had a policy in effect since 2002 that it will not provide any surgical procedures to individuals diagnosed with GID. At my request, DOC staff have reviewed records dating back to 1999, and have found that no surgical procedures relating to GID were authorized by the Department during that time.

In response to your inquiry regarding hormonal treatment, my staff has gathered the following information relating to hormonal therapy provided to inmates diagnosed with GID. The Department currently has two male inmates receiving oral hormonal treatment for GID. In these cases, our records indicate that both of these inmates had been receiving oral hormonal treatment at the time of their conviction and prior to their admittance to DOC. As a result, DOC physicians made the medical decision to continue this treatment. It should be noted that these types of treatment are rare. Since at least 2002, the Department has not approved any requests to start new hormonal treatment.

A third inmate receiving such treatment, formerly in the custody of DOC, has been placed at the Wisconsin Resource Center. His case is currently in litigation.

The cost of oral hormonal treatment for GID varies. For one of the two inmates receiving the treatment, the cost is approximately \$1561 per year. For the other inmate, the cost has been \$679 per year.

Also, enclosed for your review is Executive Directive 68, issued by my predecessor in 2002, which has been the Department's policy relating to GID. DOC medical staff have advised me that this policy was drafted to ensure that decisions regarding the treatment of persons with GID are based upon sound medical judgment after consideration of the facts of each individual

case, and that the policy is in accord with best medical practices. The policy clearly states that no surgical procedures for the purpose of sexual reassignment shall be provided. The policy also provides that inmates diagnosed with GID are to be maintained at the level of gender change that existed upon their admission to the prison system. Under the policy, inmates who are not already receiving hormonal treatment may receive such therapy only after review and approval of the GID committee and an outside consultant. As noted previously, since the GID committee was established in 2002, there have been no approvals for initiating hormonal treatment. This policy is virtually identical to those adopted by the Federal Bureau of Prisons and many other states.

This policy precedes me as Secretary of the Department. However, having reviewed the policy, it appears as though the Department was trying to create a procedure to deal with inmates who have requested a continuation of treatment in order to minimize the legal exposure of the state. As you know, the case you cited in your letter to me involves current litigation. At this time, I believe that the Department and the state would be best served by awaiting the outcome of this litigation, and assessing our policies after that decision has been made. I look forward to working with you as we address this issue.

Thank you for allowing me to respond to your concerns. Please contact me if you have additional question or need additional information, or if you would like to discuss these matters further.

Sincerely,

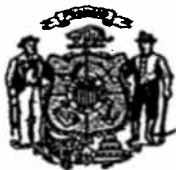
A handwritten signature in black ink, appearing to read 'Matthew J. Frank', with a long horizontal flourish extending to the right.

Matthew J. Frank  
Secretary

Enclosure

Scott McCallum  
Governor

Jon E. Litscher  
Secretary



State of Wisconsin  
Department of Corrections

Mailing Address

3099 E. Washington Ave.  
Post Office Box 7925  
Madison, WI 53707-7925  
Telephone (608) 240-5000  
Fax (608) 240-3300

**EXECUTIVE DIRECTIVE # 68**

**SUBJECT: Scope of Services for the Treatment of Gender Identity Disorder**

**I. Background**

It is the policy of the Wisconsin Department of Corrections (DOC) to provide appropriate treatment services to offenders meeting the criteria for a diagnosis of gender identity disorder (DSM-IV 302.85). Practitioners shall take correctional and community standards of care into consideration when providing treatment services.

**II. Definitions**

Diagnostic and Statistical Manual, 4<sup>th</sup> Edition, Revised (DSM-IV): The standard manual of psychiatric diagnoses and classification codes.

**Gender Identity Disorder**: A psychiatric disorder in which a person is not satisfied and is seriously dysphoric with regard to their anatomical gender. In general, this condition is a stable, nonviolent condition and not due to psychosis, but it may accompany other mental disorders.

**Hormonal Therapy**: The use of hormones to stimulate the development of secondary sexual characteristics such as enlargement of breasts and which may exert systemic effects such as body hair loss.

**Sexual Reassignment Therapy**: Treatment for gender identity disorder in which one or more of the following are used: hormonal medications, surgical procedures to alter a person's physical appearance so that he/she appears more like the opposite gender and psychological counseling.

**II. Guidelines**

- A. No surgical procedures for the purpose of sexual reassignment shall be provided to any offenders incarcerated in the WDOC.
- B. After consultation with the Gender Identity Disorder Committee, hormonal therapy for severe gender dysphoria may be initiated by the WDOC physicians.

The Gender Identity Disorder Committee will consult with a non-WDOC consultant before approving or denying a request from a WDOC physician for initiating hormonal therapy. If the Committee and the non-WDOC consultant do not agree regarding initiating hormonal therapy for severe gender dysphoria, the DOC Medical Director and non-WDOC Consultant will meet with the Secretary's Office to reach a decision.

- C. An offender who is receiving hormonal medications as a part of an established sexual reassignment therapy regimen under the supervision of a medical doctor at the time of incarceration may be continued on hormonal medications provided that the offender cooperates with the DOC in obtaining confirmation of his/her previous treatment. If an offender chooses to discontinue hormonal medications and then wishes to restart hormonal medications, the committee referenced below will evaluate the request and make a determination.
- D. The offender must agree to sign DOC-1163, Confidential Information Release Authorization, allowing DOC medical and mental health staff access to medical and mental health records regarding all prior treatment related to gender identity disorder.
- E. Offenders identified or claiming to suffer from gender identity disorder shall have access to the full range of mental health therapies available through the Wisconsin DOC. They shall have access to therapies in which they may explore their ambivalence, confusion and conflict around sexual identity as well as those services focusing on enabling those with identifiable mental health problems to better adjust to institutional living.
- F. Self-inflicted genital mutilation or other forms of self-mutilation are not consistent with successful sexual reassignment therapy.

#### Facility Placement

- A. In the event that an offender who has completed a surgical sexual reassignment treatment program is committed to the DOC, that offender shall be placed in a correctional facility appropriate for his/her reassigned gender.
- B. In general, offenders shall be placed in facilities in accordance with their gender as determined by their external genitalia.

#### Name and Apparel for Inmates with Gender Identity Disorder

- A. The DOC shall use the name of the offender as it appears on the Judgement of Conviction. The only exception to a name change will be through an order of a judge to have the name of the offender legally changed after the Judgement of Conviction. A new Judgement of Conviction must be issued or the court order must specifically state "change all records".

- B. Property and apparel shall be consistent with the offender's determined gender.

Gender Identity Disorder Management and Treatment Committee

- A. Composition: The Committee shall be composed of the DOC Medical Director, the DOC Mental Health Director, the Bureau of Health Services Director or designee, an assigned doctoral prepared psychologist, and a Warden or designee. In addition, a medical specialist in the treatment of gender identity disorder from the community may be retained as a consultant on specific cases. If the offender is identified as a sex offender, the Chief Psychologist, Sex Offender Specialist shall participate as a member.
- B. Function: The committee shall be convened to address issues in the management of individuals with gender identity disorder after review and referral by the medical director, mental health director or Bureau director. Inmates may be referred to the medical director, mental health director or bureau director to address issues of concern through the committee by institution Wardens or their designees.

The committee shall advise the medical director or treating physician on issues such as appropriate diagnosis, complications of treatment, management issues, and/or the design and implementation of a plan of care.

IV. References

American Psychiatric Association (1994) Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> Edition, Revised, American Psychiatric Association, Washington, D.C., 492-498.

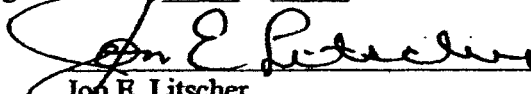
Colorado Department of Corrections, Administrative Regulation # 700-14, Offender Health Services, September 15, 2000.

Scope of Services for the Treatment of Transsexualism, Department of Corrections, Wisconsin, April 17, 1984

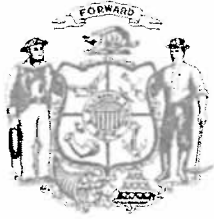
V. Originated By

Division of Correctional Programs, Bureau of Health Services

Signed this day 17 of Dec 2002

  
Jon E. Litscher  
Secretary





# TED KANAVAS

STATE SENATOR

Testimony on Senate Bill 88

Senate Committee on Judiciary, Corrections and Privacy

April 4, 2005

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Chairman Zien and members, I am pleased to have the opportunity to testify before your committee on behalf of Senator Ted Kanavas on Senate Bill 88, which will put a halt to hormonal therapy and gender reassignment surgery for inmates in the Wisconsin Department of Corrections.

It is unfortunate that we have to legislate common sense, but we have now been forced to do just that in this bill. My stance on this issue is simple. If you are convicted of a crime, and are in turn incarcerated in our state's correctional facilities, you should not have the option to force the taxpayers of this state to pay for hormonal therapy or the ensuing gender reassignment surgery. Let me be clear. It is not my intention, and SB 88 does not legislate, the prevention of inmates from consulting with their physicians or receiving needed medical care. The bill is drafted to specifically address hormonal therapy and gender reassignment surgery.

According to the Wisconsin Department of Corrections, two inmates have already received hormonal therapy. It cost the taxpayers of the state \$2,400 in 2004 to pay for the treatments. \$2,400 may not seem like a lot of money in the context of a multi-billion dollar state budget, but on principal I oppose these expenditures.

Inmates in our prisons cost the state of Wisconsin roughly \$28,000 a year to house. They have cable television, three square meals a day, the ability to take continuing education classes, and access to better health care and prescription drugs than many law abiding residents of this state. I do not believe that prison should be a pleasant experience for inmates. They should realize that their time while being incarcerated is a punishment for their actions, and it should serve as a deterrent to committing future crimes.

I am disappointed that the legislature must act on issue that never should have arisen in the first place, but that is what I am asking this committee and the full legislature to do. How can we return home to our districts and tell our constituents that we are working hard to reign in wasteful government spending and at the same time tell the Department of Corrections that is it okay to continue to provide these elective procedures to those individuals who have done harm to the general public? We shouldn't, and if this bill is enacted we won't have to.

Thank you for your consideration of this bill.

STATE CAPITOL

P.O. BOX 7882 • MADISON, WISCONSIN 53707-7882  
(608) 266-9174 • (800) 863-8883 • FAX: (608) 264-6914





Federal Appeals Court Cases Dealing with Hormone Therapy for Prisoners  
Since 2002

**De'Lonta v. Angelone, 330 F.3d 630 (4th Cir. 2003)**

**Brooks v. Berg, 270 F. Supp.2d 302 (N.D.N.Y 2003)**

**Kosilek v. Maloney, 221 F. Supp.2d 156, (D. Mass. 2002)**