

PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Assembly Committee on Corrections

Assembly Bill 815

January 18, 2022

First of all, thank you Chairman Schraa and members of the committee for allowing me to testify before you today concerning Assembly Bill 815.

Treatment and Diversion (TAD) programs are designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families by meeting the comprehensive needs of participants.

Under current law, the Department of Justice administers a grant program which provides funds to counties to establish and operate TAD programs, providing alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or drugs.

AB 815 adds mental illness to those two conditions for which the TAD program applies. That change makes sense, because drug abuse, alcohol abuse and mental illness issues are all behavioral health matters. The change gives the justice system an additional option when assessing a particular situation and how to respond most effectively.

In addition, diverting some individuals to a TAD program rather than a correctional institution can help alleviate some of the overcrowding in our prison system.

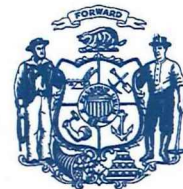
Current TAD funding in the 2021-23 state budget is \$2 M, allocated evenly with \$1 M available for the first year and \$1 M for the second year beginning on July 1, 2022. The change in definition to include mental illness would be effective for the second year.

Approximately 40% of the prisoners in our correctional facilities suffer from mental illness. Although that number is already high, mental illness needs in Wisconsin are projected to increase because of COVID. Including mental illness as a category within the TAD system provides the opportunity for people to receive help without incurring a criminal record.

Thank you for this opportunity to testify before you today. I appreciate your consideration of this bill. Now, I'll turn it over to Rep. Goyke, and we will be happy to take any questions after his testimony.

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January 18, 2022

Chairman Schraa and fellow Assembly Corrections Committee members,

Thank you for hearing Assembly Bill 815. This bill makes a simple, yet incredibly important change to the Treatment, Alternatives and Diversion (TAD) Grant Program.

Since its creation in 2005 Act 25, Wisconsin's TAD Program has proven to be effective in providing alternatives to incarceration to individuals who need treatment for substance use disorder. These important evidence-based programs help reduce recidivism, while maintaining public safety.

According to the Wisconsin Department of Justice, 81% of TAD graduates did not have any new convictions after three years. TAD graduates are nine times less likely than non-graduates to be admitted to state prison after program completion. Additionally, 97% of TAD graduates stayed out of state prison after completing their TAD program.

Since 2005 Act 25, the legislature and three Governors have made meaningful investments in this program and expanded it to counties throughout Wisconsin. According to Legislative Fiscal Bureau, with the increased funding for the TAD program in recent years, DOJ awarded 50 TAD grants totaling \$5,938,900 to projects operated by 50 counties and two tribes. In the current biennium, a \$2.5 million dollar increase to TAD was approved for the second year of the biennium, starting July 1, 2022.

In 2014, I served as Vice-Chair of the Legislative Council Study Committee on Problem-Solving Courts, Alternatives, and Diversions. This committee was chaired by our former colleague Rep. Gary Bies. The committee reviewed Wisconsin's evidence-based programs and made recommendations to the legislature with some now in state statute. The study committee also reviewed the limitations to the TAD program, where the program could be expanded in Wisconsin, and what treatment options could be eligible. The study committee changes were embodied in 2015 Assembly Bill 52, which did not make it to the floor for a vote. That committee and that bill recommended expanding the TAD statute to include mental health treatment programs and that is exactly what AB 815 will do.

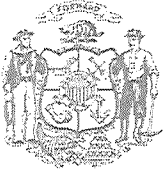
Mental health can be better treated in the community than in custody. Treatment programs within the prison system are limited and incredibly expensive. We have not provided enough support to the Department of Corrections to best care for individuals with mental health conditions in custody, while at the same time the number of inmates with a mental health diagnosis is growing.

Roughly 40% of men and 80% of women in our prisons have a mental health diagnosis. AB 815 would begin to help alleviate this issue by providing much needed resources to counties to run mental health diversion and alternative programs. At the same time, individuals may experience lower recidivism through more effective treatment, which means a reduction of crime in our communities.

AB 815 avoids creating a new program, new office, or a new type of grant - it simply builds upon the known, proven, and accountable structure of our existing TAD program.

TAD programs work. They have helped save thousands of individuals struggling with substance use disorder and it's time to extend this program and these opportunities to individuals in our community struggling with their mental health.

I welcome any questions and again, I appreciate your time hearing this important, bi-partisan bill.



ANDRÉ JACQUE

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*Testimony before the Assembly Committee on Corrections
Senator André Jacque
January 18, 2022*

Chair Schraa and Members of the Assembly Committee on Corrections,

Thank you for the opportunity to testify before you as the Senate author in support of Assembly Bill 815, legislation with strong bi-partisan support to expand the scope of available funding for Treatment Alternative and Diversion (TAD) programs.

Since its creation in 2005 Act 25, Wisconsin's Treatment Alternatives and Diversion Grant Program has proven to be effective in providing alternatives to incarceration to non-violent offenders who need treatment for substance abuse and addiction. The TAD program currently operates in nearly 50 counties and in 2 tribes. AB 815 extends that program to include those who have a mental health diagnosis. These important evidence-based programs help reduce recidivism, while maintaining public safety.

Prior to being elected to the Wisconsin legislature, my work with Brown County Human Services included interaction with the Federal Substance Abuse and Mental Health Services Administration and incorporation of best practices related to addressing co-occurring disorders. TAD maximizes the use of limited criminal justice resources by establishing a state and local partnership to implement a continuum of community-based services and intermediate sanctions that will increase efficiencies and result in decreased costs associated with the state and county criminal justice systems. According to the Wisconsin Department of Justice, 97% of TAD graduates stayed out of state prison after completing their TAD program.

I am pleased to have supported previous TAD funding expansion initiatives both in the budget and in standalone legislation offered by my colleagues in both parties. Having witnessed proceedings and spoken with graduates from a host of TAD courts in my district, including those who received treatment for their mental health needs, I believe TAD courts are a good fit for many offenders and offer a critical intervention point of the sort that we are always pursuing as policymakers. I am pleased that AB 815 is supported by Disability Rights Wisconsin.

Under AB 815, mental health programs would be eligible for TAD grants beginning July 1, 2022, to coincide with the increased \$2.5 million in TAD funding passed in the most recent state budget.

The legislature has worked together across the aisle in both chambers to make this program successful. Let's continue together in making this important investment in our state and the future of the program's participants.

Thank you for your consideration of Assembly Bill 815.



WISCONSIN CATHOLIC CONFERENCE

TO: Members of the Assembly Committee on Corrections

FROM: Barbara Sella, Associate Director

DATE: January 18, 2022

RE: AB 815, TAD Grants for Mental Health Treatment

The Wisconsin Catholic Conference, the public policy voice of the Catholic bishops, urges you to support Assembly Bill 815, which would allow Treatment Alternatives and Diversion (TAD) grants to be used for the treatment of mental health conditions.

In 2004, the WCC testified in support of the original TAD bill, noting that it called for “a profound change in our correctional system.” Our position was based on the 1999 findings of a WCC Task Force on Corrections, which issued *Public Safety, the Common Good, and the Church: A Statement on Crime and Punishment in Wisconsin* and called for rethinking our state’s correctional system. In their statement, the bishops posed the question, “is a policy of allocating so many resources to locking people up without reforming them good stewardship which furthers the common good?”

Already in 1999, the bishops recognized that many of the incarcerated suffered from mental health issues. Today it is widely recognized that unresolved trauma is often at the root of mental health deterioration and delinquency. Just as our educational system is focusing more on the mental health of students, so too our criminal justice system must address the mental health needs of offenders.

According to an April 2021 report from Wisconsin’s Division of Adult Institutions, 92 percent of incarcerated women and 40 percent of men have a mental health condition.¹ Among women, 38 percent have been diagnosed with such serious conditions as bipolar disorder, schizophrenia, personality disorder, and severe depression. Among men, the number drops to 7 percent. Incarceration is rarely able to address these conditions and often exacerbates them, whereas treatment courts provide intensive programs to help participants heal.

Treatment courts have been shown to reduce recidivism. In 2020, the State of Wisconsin Criminal Justice Coordinating Council TAD Program demonstrated that participants who

¹ State of Wisconsin, Department of Corrections, Division of Adult Institutions, “Corrections at a Glance (November 2021)” <https://doc.wi.gov/DataResearch/DataAndReports/DAIAtAGlance.pdf>

graduate from treatment courts recidivate at significantly lower rates than those who receive no treatment.²

Treatment courts also save taxpayer money. The same 2020 TAD program report noted that “the Wisconsin criminal justice system receives a benefit of \$4.17 for every \$1 in state TAD funding spent on treatment courts.”³

While untreated mental health and substance use place individuals at far greater risk of committing crimes, we know that there is hope for those who choose to accept treatment. At the same time, society has a responsibility to see that effective treatment is properly funded for those most in need.

It seems appropriate to close this testimony in the same way we did in 2004.

Reconciliation and restoration are not possible unless those rightly convicted of crimes accept the responsibility for what they have done and acknowledge that their crimes had consequences for others. Neither is restoration possible if law abiding citizens cannot set aside their pain and righteousness in favor of making the community whole again.

AB 815 helps make offenders and the community whole again. We commend the authors for their bill and we strongly urge you to support it.

Thank you.

² Wisconsin Department of Justice, Bureau of Justice Information and Analysis, “Treatment Alternatives and Diversion (TAD) Program 2014-2018 Participant Outcome Summary and Cost-Benefit Report,” p. 52. https://docs.legis.wisconsin.gov/misc/mandatedreports/2020/departement_of_justice/treatment_diversion_tad_participant_outcome_summary_s_165_95_5p_b_received_3_5_2020

³ Ibid, p. 3.



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Assembly Committee on Corrections
Tuesday, January 18, 2022
Assembly Bill 815

Chair Schraa and members,

Thank you for the opportunity to provide feedback on Assembly Bill (AB) 815. The State Public Defender (SPD) is a statutory participant in the Treatment Alternatives and Diversion (TAD) program, participating in treatment court activities at the state and county level.

Since its inception, the TAD Program has employed evidence-based strategies to divert individuals with substance abuse disorders for treatment rather than incarceration. Through careful data tracking and analysis, we know that the TAD program has consistently shown lower recidivism rates and reduced costs. The legislature has recognized the success of these programs through a significant growth in funding over the last decade.

One component that has not been directly addressed through the TAD program is mental health. We know that significant numbers of individuals in our jails and prisons have a diagnosable mental health condition. By adding mental illness to the statute, we can expand the types of courts that provide treatment as a response rather than incarceration and make a difference in terms of improved treatment of individuals and an increase in future public safety.

Having recently participated in the next five year grant review process for TAD grants, several things became obvious. First, that there continues to be significant demand by counties and local criminal justice coordinating councils for TAD funding. Also that each county is in a better position than the state to determine what programs will work in their local jurisdiction. Finally, the existing structure of the TAD grant program has the ability to review the applications, provide support to emerging and existing programs, and analyze the efficacy of those programs.

AB 815 will open significant new opportunities for future TAD grant funded opportunities. We appreciate the efforts of the bill authors to bring this bill before the committee. Please feel free to contact us if you have additional questions.

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Kimberly Kitzberger
President
Emily Nolan-Plutchak
Acting President-Elect

Assembly Committee on Corrections
January 18, 2022
Assembly Bill 815

Chair Schraa and members,

Thank you for the opportunity to provide feedback on Assembly Bill (AB) 815. The Wisconsin Association of Treatment Court Professionals (WATCP) is Wisconsin's only professional organization for training and advocacy on behalf of the nearly 100 treatment courts statewide including mental health courts. Our multidisciplinary membership is comprised of over 700 criminal justice stakeholders and treatment providers from across the state. WATCP also sits on the TAD subcommittee for the statewide Criminal Justice Coordinating Council.

In April, WATCP was able to moderate a listening session for over 100 legislators, staff and members of the community to express the importance of continued support for the TAD program. During this presentation, we emphasized the success of treatment courts measured in terms of reductions in recidivism (10-27%) and savings to the criminal justice system (\$4 saved for every dollar invested) We emphasized how these programs save lives, restore families and strengthen communities. Finally, we lauded the considerable legislative support TAD has received over the last 15 years.

Because of TAD, treatment courts have enjoyed tremendous growth. Wisconsin has seen the benefits of 86 TAD funded programs located in 53 counties/3 tribes; an eight-fold increase since TAD was enacted. The requirement however that participants in TAD funded programming "abuse alcohol or other drugs" limits the growth of other similarly effective programs like mental health courts. Participants in mental health courts often present with co-occurring substance use and mental health disorders, but not always. In turn, these programs are ineligible to receive TAD funding.

Studies have shown a variety of benefits for mental health court participants and the community including reductions in recidivism, incarceration, substance abuse and increased participation in treatment services and enhanced independent functioning. ⁱ Wisconsin however has only 6 mental health courts statewide. Much like drug treatment courts pre-TAD, their ability to assist with the criminal justice system's most challenging offenders is limited by small numbers and inadequate treatment resources.

Mental illness among justice involved persons is concerning. Data provided by the Bureau of Justice Assistance reveals that as many as 16% of incarcerated persons suffer from serious mental illness; 4-8 times the general population. Wisconsin is no different. Department of Corrections data reveals that over 40% of state inmates are diagnosed with serious mental illness. ⁱⁱ

AB 815 will allow counties to enhance existing mental health court programs and build new ones. It will give counties a valuable tool to address a significant concern in our justice system. WATCP appreciates the efforts of the bill authors to bring this bill before the committee and looks forward to its passage.

ⁱ Council of State Governments Justice Center for Bureau of Justice Assistance, U.S. Dept. of Justice, 2008, *Mental Health Courts A Primer for Policymakers and Practitioners*, found at https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/MHC_Primer.pdf

ⁱⁱ Wisconsin Dept. of Corrections, 2018, *Agency Budget Request, 2018-2021 Biennium*, found at <https://doa.wi.gov/budget/SBO/2019-21%20410%20DOC%20Budget%20Request.pdf>

Date: January 18, 2022
To: Assembly Committee on Corrections
From: Bruce R. Erdmann, Ph.D.
1921 Keyes Ave
Madison, WI 53711

Chair Schraa, Vice-Chair Callahan, and members of the Assembly Committee on Corrections. Thank you for allowing me to speak in support of *Assembly Bill 815*. I believe this bill provides an important step in addressing problems associated with how treatment of mentally ill citizens intersects with the criminal justice system.

I'm speaking today as a retired private citizen I but have some experience in this area. I began my career as a psychologist by working in a psychiatric hospital in Buffalo New York. There, I saw a steady flow of individuals coming in and out of the hospital; this led to implementation of an innovative program designed to stem the flow by providing considerable community support that reduced or prevented hospitalizations.

My first 10 years working in Wisconsin included consulting with a rural community mental health center. There, I saw the benefits of wraparound services for people with mental illness, but also saw the limitations imposed on this process by limited funding.

My next 10 years included working in the Dodge Correctional Institution and in Community Corrections serving Dane, Rock, and Green counties. My experience in Community Corrections gave me a taste of how working across professional lines with public defenders, the D A's Office, and corporation counsel could truly provide justice for individuals with mental illness while keeping them out of the correctional system. Unfortunately, such a result was achieved only for a few individuals when all factors seem to align perfectly.

This bill provides a mechanism by which counties can choose to use the strengths of the correctional system, the judicial system, and the mental health treatment system to encourage mentally ill individuals to participate in and comply with treatment.

I strongly believe that expanding the use of treatment alternatives and diversion (TAD) programs¹ as proposed in *Assembly Bill 815* to include mental illness will facilitate the effective treatment of mentally ill individuals. I base this belief on the documented successes of our established drug courts². Some counties in the state have already established mental health courts³; I am sure data regarding their successes and failures would be available to this committee.

While this bill is an important step in diverting the mentally ill individuals from the correctional system it is only one element of an effective strategy. As you may already know, the largest mental health treatment facilities in our state are not our mental health institutions, they are our maximum security prisons. I do not believe that it was ever the intention of the people of Wisconsin to use prisons as a primary modality for providing care for mentally ill citizens. Diverting mentally ill citizens from the prison system is an important step in addressing many issues. Please support *Assembly Bill 815* along with other efforts to improve the options for care available to mentally ill individuals.

¹ See <https://www.watcp.org/wp-content/uploads/2018/12/FINAL-WI-Treatment-Court-Standards-2018.pdf>

² See <https://www.wiscs.org/programs/court-community-services/waukesha-drug-treatment-court/> ;
<https://www.ojp.gov/ncjrs/virtual-library/abstracts/drug-court-effectiveness-matched-cohort-study-dane-county-drug> ;

³ This includes Brown, Outagamie, and Eau Claire Counties; see <https://cicc.doi.wi.gov/local-program-map> for a map of TAD-funded problem-solving court programs.