



John Nygren

WISCONSIN STATE REPRESENTATIVE ★ 89TH ASSEMBLY DISTRICT

Co-Chair, Joint Committee on Finance

Assembly Committee on Criminal Justice and Public Safety

Chair, Representative John Spiros

Testimony by Representative John Nygren

March 2, 2017

Thank you Chair Spiros and members of the Committee on Criminal Justice and Public Safety for holding a public hearing on Special Session Assembly Bills 1, 2, and 10.

For the past two sessions, we have worked together as legislative colleagues to pass a package of 17 bills aimed at combating our state's opioid and heroin epidemic. We call this package the Heroin, Opioid Prevention and Education – or HOPE – Agenda. With unanimous bipartisan support and Governor Walker's signature, we successfully laid a foundation to combat heroin and opioid addiction in Wisconsin. That said, there is still more work to be done.

This session, I was appointed Co-Chair of the Governor's Task Force on Opioid Abuse with Lt. Governor Kleefisch. From the work of this task force, the Lt. Governor and I released a report of recommendations to Governor Walker. The governor took immediate action and called for a Special Session on Opioid Abuse.

The following bills are part of Governor Walker's Special Session call to fight opioid abuse and addiction in Wisconsin:

2017 Special Session Assembly Bill 1

Currently, school personnel are only protected to administer epinephrine in the event of an allergic reaction and glucagon in the event of a diabetic student's low blood sugar event. This bill expands upon these safety measures to allow school district personnel to administer an opioid antagonist to a student or other individual who experiences an overdose on school grounds.

Additionally, I worked on an amendment with Rep. Billings to allow residence hall directors in public, private, and technical colleges across the state to administer opioid antagonists to students on campus.

Expanding access to these lifesaving drugs is key to ensuring the safety of all students and adults on school grounds.

2017 Special Session Assembly Bill 2

This bill will continue the appropriation for treatment and diversion (TAD) grants by \$2 million annually, allowing for the continuation of these programs throughout Wisconsin. Furthermore,



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this bill provides \$150,000 annually to expand TAD to more counties and provides \$261,000 annually to create a pilot program for expanded diversion efforts.

There are currently 45 TAD grants involving 46 counties and two tribes. Three grants involve multiple counties (Ashland/Bayfield, Burnett/Washburn, and Buffalo/Pepin). TAD grants now help to support over 50 treatment courts and diversion programs in Wisconsin, with some counties or tribes operating multiple programs. As result of the 2017 competitive grant process, 14 new counties are receiving TAD funding.

While these programs are created and operated at the county level, state grants to implement and support these programs have been available for a few years. These programs have proven to be an effective and efficient means of combatting drug and alcohol abuse in our state, making our communities safer.

2017 Special Session Assembly Bill 10

Data shows that many illegal substances, including heroin, are initially made in Mexico and Asia. These dangerous drugs are not made in our backyards; they have to be brought into our state by traffickers. In order to mitigate drug trafficking into Wisconsin, this bill allocates funding for four additional positions at the Department of Justice whose sole responsibility will be to stop people and organizations that bring dangerous, illegal substances into our communities.

I appreciate the opportunity to testify before your committee today on these important pieces of legislation and welcome any questions you may have at this time.



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PREPARED TESTIMONY OF ATTORNEY GENERAL BRAD D. SCHIMEL
Support for January 2017 Special Session Assembly Bills 1, 2, and 10
Assembly Committee on Criminal Justice and Public Safety
Thursday, March 2, 2017

Thank you, Chairman Spiros and members of the Assembly Committee on Criminal Justice and Public Safety, for allowing me the opportunity to submit written testimony in support of January 2017 Special Session Assembly Bills 1, 2, and 10.

Special Session Assembly Bill 1

Naloxone, also commonly known as NARCAN®, was used more than 4,600 times in 2014 to revive someone in the throes of an overdose. The reality is not every naloxone deployment was successful, but the more important fact is naloxone saved many lives. Naloxone gives us another opportunity to help somebody struggling with addiction. There is no doubt, without access to naloxone, the number of annual overdose deaths in Wisconsin would be much higher. Instead of hundreds of deaths each year, we would be facing thousands of deaths. Open your local newspaper and there is likely a story about a Wisconsinite who was revived through quick actions of somebody with access to naloxone.

Naloxone has no addictive qualities and is completely harmless if administered to somebody who isn't experiencing an opiate overdose. For this reason, I ask, how can we not get behind widespread access and subsequent use of naloxone? As both the medical community's understanding and society's acceptance of addiction as a disease continues to grow, the State must do its part to ensure all the effective tools to fight addiction are in its arsenal. After taking charge of the Wisconsin Department of Justice (DOJ) in January 2015, I prioritized the statewide training of law enforcement officers in the proper use of naloxone. Over the last two years, hundreds of law enforcement officers have been trained to deploy naloxone. We will continue to provide training to those on the front lines of the fight to save citizens in an overdose. Last week, I announced an agreement the State reached with Adapt Pharma, the manufacturer of NARCAN®. The agreement provides public entities cheaper access and increased availability to the "Lazarus Drug." This type of agreement is the second that the State has reached with a naloxone manufacturer.

DOJ, of course, has not been alone in ensuring naloxone's use is widespread and available to citizens in all corners of our state who are put in the position to save the life of a friend or family member. Part of Representative Nygren's H.O.P.E. legislation included a standing order at pharmacies, a Good Samaritan law, and an expansion of training on the use of naloxone in the field.

We know that nearly half of the overdose deaths in our nation occur outside the home, making access to naloxone and immunity from civil liability for the use of naloxone very important. SSAB 1 will allow people who have close contact with young adults, those most vulnerable to opiate addiction, the tools and protections they need for performing a heroic and life-saving act. This legislation mirrors the protections already in the state statutes for individuals who use medication to save somebody with allergies experiencing an allergic reaction or a diabetic experiencing low blood sugar. There is no stigma surrounding these types of medical conditions. One day, with the help of the Wisconsin Legislature and continuing efforts to educate Wisconsin citizens, there will no longer be a stigma surrounding addiction. Please pass SSAB 1 quickly and send it to Governor Walker's desk, so we can continue the important work of effectively combatting and ending drug abuse in Wisconsin.

Special Session Assembly Bill 2

Last year, I stopped by the Waukesha County Drug Treatment Court because my friend's son was graduating after completing over a year and a half of hard work in the program. It was a happy day, for sure, but it was also an emotional event that caused some flashbacks to less optimistic times. I knew quite a bit of my friend's son's history, because my friend contacted me for advice when things were looking very grim. My friend was not sure his son would survive the disease of addiction. At one point, as the Waukesha District Attorney at the time, I had to make the difficult decision to issue a felony criminal complaint against the young man. We had tried the other options provided by the criminal justice system, as is still the routine for people who are struggling with addiction. However, but as is so often, if the person is ultimately going to survive their disease, they need to face reality and accept help. That reality check is typically a result of being locked in our jail.

As I said, the graduation was emotional for me. I knew the young man had setbacks in the program. There were times that he almost got himself kicked out of Drug Treatment Court. We knew to expect relapses and other setbacks, because those scenarios are predictable when a person is battling the powerful disease of opiate addiction. Those situations made life a roller coaster ride for sure, but that was not what made the graduation ceremony emotional.

Rather, the emotions were due to the fact that I, and everyone else in that room, knew two daunting things about the graduate. First, before he decided to enroll in Drug Treatment Court, he had a choice between only two potential futures: prison or death

by drug overdose. This is not easy for me to say, and if my friend sees this it might be hard for him to read, but back then it was clear just how bleak the future was. In a way my friend had been visited by the "ghosts of Christmas Present and Future." He had witnessed his son in an overdose, and had to call 911 to get help to save him. In Wisconsin, there are many family members and friends of people struggling with opiate addiction that are forced to face those ghosts every day. I have heard many of them describe it and still cannot fathom how frightening that must be for them. The reality is that my friend's son is part of a small minority of people who ever get substantial, and lasting, help with their addiction.

The second thing that made this ceremony emotional was the knowledge that the graduate was by no means out of the woods. Drug Treatment Court graduation is an event that brings pride in accomplishment and some degree of relief, but it is only the first step on a journey that requires commitment, courage, strength and a lot of support for the rest of this young man's life. People in recovery often say "it is one day at a time." Truer words were never spoken. That young man and his family will never be completely off the hook of this disease. While recovery is something worthy of great celebration, there is no cure. There is just remission. One day at a time. Forever.

Beyond those two reasons, there is more that made this young man's graduation significant: my friend is a veteran police officer. I am talking about a true veteran with decades of law enforcement experience in urban, suburban and rural areas. He has seen it all. He knows exactly what to do to protect his family, but he found out firsthand that opiate drug abuse is a danger that tries to make all of us powerless. How can a parent, especially one whose job is protecting others every day, face that reality?

You had better believe it, my friend's challenges with his son made me consider my own vulnerability as a parent of teenage daughters. There were a couple of young women, kids really, who had their cases reviewed by the judge about the time of the graduation ceremony. They looked an awful like my daughters and their friends. If it can happen to a veteran police officer and his wife, who are both loving, devoted and attentive parents, it can happen to any of us.

I want to say thank you to the judges, prosecutors, public defenders, case managers, social workers, counselors, sponsors, probation agents and police officers who all work hand in hand to make the Drug Treatment Courts across our state succeed. It is "collaboration" at its best. Operating a Drug Treatment Court is a lot more like parenting than traditional criminal justice, and it often turns the roles of the professionals upside down. The prosecutor will often be advocating for another chance while the public defender is arguing to kick the participant out of the program. You have to see it to believe it!

After 26 years as a prosecutor I can say, without reservation, that Treatment Courts are the best thing the criminal justice system has ever done. It is not only me that believes that. The fact is, the DAs, police, social workers, public defenders and everyone else in between—we all agree. We are finally recognizing that we cannot “incarcerate our way out of problems” related to addiction. Yes, jail and prison are sometimes necessary parts of our approach to punish the crime that is driven by addiction, but we were mistaken to think that confinement alone was going to change a person’s disease or their behavior. Treatment Courts combine accountability and an opportunity to earn a second chance by demonstrating commitment and hard work. This approach ultimately makes our communities safer and healthier.

On top of all of that, Drug Treatment Courts are a great bargain. They are cheaper than even a relatively short stint in jail; and are far more affordable than prison. They reduce recidivism dramatically, so they are good for the taxpayers that way, too. They are also less expensive than a combination police, EMT and medical examiner response to an overdose. Treatment Courts are a true win-win situation.

More than 30 counties in Wisconsin have Drug Treatment Courts up and running. We hope, one day soon, this type of resource will be available everywhere in the state. We believe the passage of SSAB 2 brings us closer to reaching that goal and changing the lives of our friends, neighbors and family members for good.

Special Session Assembly Bill 10

In recent years, the Wisconsin State Legislature's work on effectively battling prescription drug and heroin abuse has been nothing short of amazing. My attorney general colleagues from across the country have recognized that Wisconsin owes this remarkable success to collaboration and cooperation across disciplines, and seek to duplicate our efforts in their own states.

One of Wisconsin's most important partnerships in the fight against drug abuse is with the brave men and women serving on the front lines of law enforcement throughout the communities in our state. Law enforcement officers wear many hats when it comes to the opiate issue. They must deploy life-saving naloxone and administer first aid; track and bust drug dealers; work with prosecutors to lock up the criminals peddling these dangerous drugs; intervene in the lives of addicts; and facilitate treatment resources.

One of the Wisconsin Department of Justice Division of Criminal Investigation's (DCI) main purpose is to provide assistance to local law enforcement agencies on drug investigations. However, in addition to narcotic enforcement, DCI leads many complex cases across a wide spectrum of important issues, including arson, Internet Crimes Against Children (ICAC), child sex trafficking, human trafficking, cybercrime and officer-involved death investigations. I appreciate both Representative Nygren's

recognition that DCI agents are spread thin, and his willingness to provide four new special agents upon the passage of this bill and its enactment into law. These four new agents will be assigned to narcotics enforcement and located throughout the state, providing additional resources to law enforcement in all 72 counties. We know that the flow of drugs is not static; and drug dealers cover territories that span multiple cities, counties, regions and states. Accordingly, new agents will work with existing multi-jurisdictional drug diversion task forces, like the successful Wisconsin High Intensity Drug Trafficking Area (HITDA) Heroin Initiative, the Lake Winnebago Metropolitan Enforcement Group and the Drug Enforcement Administration Tactical Diversion Squad. When fully incorporated, the four additional special agent positions will facilitate heightened collaboration between local, state and federal law enforcement entities to combat the deadly effects of heroin use.

These four special agents would be focused on opiate-related matters and be in a position to pursue the initial sources of opiates that can lead to use and abuse, as well as attack the infrastructure of the organized heroin distribution networks. The four additional agents, located throughout the state, will allow for comprehensive heroin intelligence gathering that can be shared with the Wisconsin fusion center, Wisconsin HIDTA and state, federal and local agencies to further develop resources and bolster criminal prosecutions. These additional positions will strengthen the mission and goals of DCI by enhancing and coordinating already established multi-jurisdictional partnerships; and creating opportunities to dedicate staff to heroin and opiate investigations beyond their normal course of drug case assignments.

I appreciate your consideration of the additional positions this bill provides and look forward to being able to better support local, state, federal and tribal narcotics enforcement efforts because of the actions of the Wisconsin State Legislature on January 2017 Special Session Assembly Bill 10.

Conclusion

The fight against prescription drug and heroin abuse is far from over. We are in the midst of an epidemic that has taken years to grow this large, and it will likely take us just as many years to shrink it. Wisconsin's private and public partners have chosen collaboration, cooperation, and coordination, instead of pointing fingers at one another, to find solutions and advocate for prevention. January 2017 Special Session Assembly Bills 1, 2, and 10 provide additional resources to aid in three major components of our approach to ending opiate abuse: prevention, treatment, and enforcement. Thank you for acting with a sense of urgency to make these bills law and your commitment to making Wisconsin a safer and stronger place to live.



SCOTT FITZGERALD

SENATE MAJORITY LEADER

March 2, 2017

**Assembly Committee on Criminal Justice and Public Safety
Special Session Assembly Bill 2**

Dear Representative Spiros and Committee Members:

Several years ago I had the opportunity to sit in on Dodge County's Treatment Alternatives and Diversion (TAD) Court. At the time, the program was solely focused on OWI offenders, and was the largest alternative treatment court program in the state. Overseen by circuit court judge Brian Pfitzinger, the program had graduated 68 OWI offenders, and out of those 68 defendants, only one individual reoffended. The experience gave me a profound appreciation for the positive impact that TAD courts can have on a community, and spurred my commitment to providing adequate funding to ensure that these programs can expand to other areas of the state.

Alternatives to sentencing, and the corresponding treatment programs that TAD courts offer, are not only vital to public safety, but have actually been proven to be a more efficient and effective channel for state investment than standard punitive corrections programs. Despite persistent efforts by the state legislature to increase penalties for alcohol and drug-related crimes, Wisconsin continues to see an alarming rate of recidivism with nearly fifty thousand third time OWI offenders, and drug-related property crime rates remain at alarming levels. It is clear that traditional penalties have not deterred those with serious substance abuse issues from modifying their behavior.

Unlike simply hiking monetary penalties and jail time, these alternative programs have been proven effective at treating substance abuse and curbing recidivism. According to a 2012 study by the National Association of Drug Court Professionals, drug court participants were significantly less likely to relapse to drug use or engage in criminal activity than offenders undergoing traditional treatment programs. Further, participants were more likely than comparison offenders to be enrolled in school and saw a dramatically lower rate of family conflict.

In addition to the social and societal benefits, these TAD programs will save Wisconsin taxpayers millions of dollars in corrections costs. According to a four year study by the University of Wisconsin Population Health Institute, participants in state TAD programs were nine times less likely to return to prison than other offenders. This translates to an average

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savings of \$1.93 for every dollar invested in TAD programs. In 2013, a progress assessment on the same study showed that local TAD programs have averted over 200,000 incarceration days, saving the state of Wisconsin more than fifteen million dollars.

Due to the overwhelming success of this approach, Wisconsin's existing TAD programs have been highly in demand, with grants now helping to support over 50 treatment courts and diversion programs statewide, with some counties or tribes operating multiple programs. Existing appropriations were unable to fund all of the counties that requested TAD programs during the most recent expansion, and additional funding is needed to allow these programs to continue to grow and expand to additional Wisconsin communities.

Today I ask the members of the Assembly Criminal Justice and Public Safety Committee for their support of this bill, and thank Representative Nygren for his continuous work on addressing substance abuse and addiction issues facing our state.

Sincerely,

A handwritten signature in black ink that reads "Scott Fitzgerald". The signature is written in a cursive style with a large initial "S".

Senator Scott Fitzgerald
13th Senate District

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MEMORANDUM

TO: Honorable Members of the Assembly Committee on Criminal Justice and Public Safety

FROM: Marcie Rainbolt, Government Affairs Associate

DATE: March 2, 2017

SUBJECT: Support for January 2017 Special Session Assembly Bill 2 – TAD Programs

Chair Spiros and members of the committee, thank you for the opportunity to speak with you today regarding Special Session Assembly Bill 2 which provides more than \$4.8 million over the biennium for Treatment Alternatives and Diversion (TAD) program grants, TAD program expansion to additional counties, and the creation of a diversion pilot program for nonviolent offenders. The Wisconsin Counties Association (WCA) supports this legislation, as TAD is an essential tool in county efforts to combat drug and alcohol abuse. Wisconsin is currently in the midst of an opioid and heroin epidemic and we commend the Legislature and the Governor for their work to address this problem. Special Session Assembly Bill 2 will assist counties with the challenges of working with offenders who suffer from addiction issues.

TAD was created in 2005 to provide grants to counties for the creation of programs such as deferred prosecution and suspended prosecution, which offer alternatives to incarceration for those offenders who have addiction issues with alcohol or drugs. TAD funding supports both pretrial diversion and adult treatment courts, which allows offenders the opportunity to stay out of county jails and state prisons through successful completion of the TAD program. Not only do these offenders stay out of the correctional system and save taxpayer dollars but they also receive the services they need to manage their addictions. Services through TAD include drug or alcohol treatment, case management and risk reduction services.

Since 2005, the TAD program has changed significantly, including several modifications to how the state funds the program, as well as the amount of funding and the number of projects supported. In the beginning, TAD funds supported six projects in the following counties: Rock, Dane, Milwaukee, Wood, and Washington and a joint project between Burnett and Washburn. TAD funds also supported one project with the St. Croix Tribe.

January 2017 Special Session Assembly Bill 2

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Today, TAD supports 45 projects that involve 46 counties and 2 tribes. These funds support more than 50 treatment courts and diversion programs.

In 2017, 14 new counties received TAD grant funds. Four counties and one tribe, however, applied but were denied because of insufficient funds. Due to the success of these programs and state support, TAD is not only helping individual offenders but also effectively combating the drug and alcohol abuse epidemic in Wisconsin. This is why continued support from the state is essential and I urge your support for Special Session Assembly Bill 2.