

Oppose Senate Bill 54

As most states work to reduce prison populations and close prisons, Wisconsin is poised to head in the opposite direction. Senate Bill 54, as amended by the Assembly, includes borrowing \$350,000,000 to build a new prison but does not include the estimated \$57,000,000 annual operating cost. We ask that you reject the bill.

Under current law, the Department of Corrections (DOC) makes discretionary decisions regarding the revocation of community supervision. Revocations make up a major source of new prison admissions, with over 3,000 revocations in 2016 alone.

Senate Bill 54, as amended, requires the DOC to recommend the revocation of an individual's community supervision if that individual is charged (not necessarily convicted) with a violent misdemeanor or any felony offense.

The Assembly version of the bill added additional requirements, including:

- Authorization of new borrowing of \$350,000,000 to build a new prison
- 54 new assistant district attorney positions throughout the state
- An requirement for a report no later than January of 2020 on the costs of the bill
- Authorization for the DOC to reconsider the revocation decision if the underlying charge is dismissed or the defendant is acquitted
- A report from the Milwaukee County's district attorney on a number of data points regarding charging decisions and case outcomes

The amendment has several shortcomings:

- Local taxpayers will be burdened with increased jail costs. The inmates held under this bill will be housed at local county jails at local expense, even if the county sheriff or prosecutor does not want the person to remain in custody. As the Badger State Sheriffs' Association put it, "Essentially, this bill is an unfunded mandate to Wisconsin county jails."
- The addition of assistant district attorney positions without increasing the number of judges, assistant public defenders, or the size of court and jail staffs, creates an unsustainable burden on the criminal justice system. In many of the same counties that will receive new assistant district attorneys, shortages in defense lawyers have caused major case delays and added expenses. If the new ADAs are hired, who will represent the people they charge with crimes?
- By borrowing \$350,000,000, the State's debt will increase and other important building projects could be delayed. Important highway infrastructure and University System

projects have already faced major delays. Further borrowing will only make the problem worse.

- By building a new prison, the State will be required to hire hundreds of full time employees and pay to maintain and staff the prison. This cost is at least several million dollars per year.
- The state faces a challenge to staff existing DOC facilities. Heavy reliance on overtime and a high turnover rate have made current conditions within DOC facilities unsafe for staff and incarcerated people. With current low staffing levels a major issue for the DOC, now is not the time to add an entire new facility that will need to be staffed.
- The DOC estimates the bill as amended will result in roughly 600 new prisoners each year. While the bill includes borrowing \$350,000,000 for a new prison, if the DOC's numbers prove true, another facility may be necessary every few years.
- The revocation process does not guarantee due process. The hearings take place in private and are overseen by unelected administrative law judges. These hearing are already a major source of new prison admissions, and adoption of SB 54 will only make this worse.
- The bill only requires new charge – not a conviction – to trigger the required recommendation of revocation, which means an individual may be sent back to prison with only a finding of “probable cause” not “beyond a reasonable doubt.” This can lead to more wrongfully accused individuals being sent to prison.

We ask that you reject Senate Bill 54 as amended by the Assembly. The changes made to the bill were not thought out and major questions and concerns remain. The state should not commit to spending \$350,000,000 plus interest and annual operating costs on something done on the fly on the Assembly floor.

This policy and its long term impacts require more time and debate, not last-minute amendments, to ensure we spend our taxes in the most effective way to keep the public safe.