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**TALKING POINTS RE SC6935 COST SAVINGS PROPOSALS IN CRIMINAL
JUSTICE SYSTEM**

**Hennepin County Attorney Michael Freeman
Senate Judiciary Committee
March 24, 2009**

COMMENTS FOCUSED ON ARTICLE 3 of SC6935

- I understand the focus of this bill is to save money in the criminal, judiciary area and to determine which changes will have the least negative impact upon public safety, As the former Vice Chair of the Senate Finance Committee that is a laudable goal. In these tough financial times it is critical.
- After ten years as County Attorney in the jurisdiction that experiences nearly 50% of Minnesota's crime, I want to articulate concerns about several areas set forth in Article 3 of SC6935. Moreover I also want to offer specific workable alternatives. In addition, my office and the MCAA are willing to continue working with the legislature on additional proposals.

ARTICLE 3 Recommends:

REMOVING MANDATORY PRISON SENTENCES FOR REPEAT DRUG CRIMES

- We suggest that this change would permit avoidance of prison sanctions for drug dealers who commit multiple and subsequent offences.
- I participated in the Controlled Substance Working Group, established by the 2008 legislature to take a comprehensive review of our drug laws. Our goal included money savings and thoughtful drug law reform.
- The task force recommendations are encompassed in SF 1683 and were previously presented to this Committee in January.
- Consistent with preserving public safety this group's recommendations included increased cocaine thresholds, thereby reducing prison beds.

However, to respond to critical public safety needs, the recommendation included reduced marijuana thresholds, and creation of marijuana grow crime. Overall these proposals were reached after 8 long meetings and would save over 100 beds/year.

- Also in favor of expanding prison treatment programs, CRP, and Challenge Incarceration Programs so we can provide meaningful chemical dependency treatment to all offenders. For those who successfully complete treatment we can release them early with real dollar savings, but also with greater expectation that they will remain law abiding than if they had served their entire sentence behind bars.

CONCERNS REGARDING CHANGES TO FELONY DWI

- When created, the threshold was set, after careful deliberation, at 3 prior offenses. So, the 4th DWI offense is currently a felony. It is working.
- Minnesota Sentencing Guidelines data shows that since 2004, fewer people are being sentenced for felony DWI.
- Hennepin County charging data shows we are charging 25% fewer felony DWI cases. In 2003, we charged 202 felony DWI. In 2008, we charged 142 cases.
- A 2007 report from the Department of Public Safety shows that in 2003 there were 267 alcohol related fatalities. In 2006, that number had dropped to 183.
- All of this data suggests that we are having a deterrent effect. This is a law that seems to be working and there is no good data to support a change. Increasing the number of DWIs it takes to get a felony and removing mandatory sentences reduces the deterrent effect. These changes fail to keep serial drunk drivers off the highway and does not save meaningful public dollars.

INCREASING GOOD TIME TO 40% RAISES MANY CONCERNS

- **This provision will cause a review of the sentence of every inmate presently in prison. These defendants already sentenced deserve the time they have either negotiated or been ordered to serve by the Judge. Those decisions were established with clear attention to public safety, the seriousness of the crime committed and should not be lightly set aside.**
- **In addition to negatively impacting public safety, this proposed increases in good time, will have an enormous initial cost.**
- **Recalculating a new release date for every offender currently in prison and every offender currently on probation is an enormous cost.**
- **Case law and statute indicate that offenders already sentenced, and those with their cases in progress will have a right to go to court and ask that they be given the increase in good time to 40%. This will require enormous amounts of court, public defender and prosecutor time.**
- **People still on probation may have to have their sentences re-calculated which will result in more court hearings.**
- **Often, prosecutors, victims and the families of victims agree to a plea negotiation because it means the offender will spend a set amount of time in prison or the county workhouse.**
- **If these sentences were part of plea negotiations, prosecutors would have the right to argue that any change to the calculation of good time amounts to a change in the plea negotiation and seek to withdraw those guilty pleas resulting in further litigation.**
- **Although increasing good time from one-third to 40% might seem like a simple solution, it appears to us that it will have an enormous up-front cost and the potential to disrupt the criminal justice system for years.**
- **There clearly are better ways to save Criminal Justice dollars.**

CAP ON SUPERVISED RELEASE VIOLATORS

- **Problematic because it does not distinguish between violent offenders and non-violent offenders.**
- **Problematic because it does not give the commissioner of corrections any discretion to determine the severity of the violation.**

OUR COST SAVINGS ALTERNATIVES

- 1. Adopt the Recommendations of the Controlled Substance Working Group sf 1683. Save 100 beds annually.**
- 2. Increase the use of ITV to include probation revocations and initial appearances for those who are already in prison.**
- 3. Eliminate paying fees to private lawyers when the state appeals a trial court's order.**
- 4. Eliminate payments by counties for expert witness fees by people represented by private counsel.**
- 5. Adopt certificates of good conduct as an alternative for costly and ineffective expungements. If we want offenders to get jobs and housing, then let's focus on that rather than the expensive process trying to hide records that are already out in the public domain. Expungements are costly to the courts, state agencies and local law enforcement.**

CONCLUSION

- **Thank you for the opportunity to give input on these important issues**
- **Look forward to working with all of you in the coming weeks.**