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Fetal alcohol, legal system, prison revocations, Short Term Sanctions Act, Department of Corrections, public hearing, community corrections, re-entry issues, sex offender registry, employment impact, GPS monitor, bipartisan support, treatment alternatives, incarceration costs.

SPEAKERS

Tom Gilbert, Speaker 2, Speaker 1, Expo Radio - Rob

Expo Radio - Rob 00:00

Welcome to Expo radio. This is Rob Schreiber, your host, I have a guest from Moses in Madison. And Moses is an affiliate of wisdom, which is a statewide organization. And the gentleman joining me is Tom Gilbert, thank you, Tom, for joining me tonight. He he's doing it via zoom. We're using technology, so if we have a problem, you know in advance, thanks for joining us. Tom

Speaker 1 00:24

glad to be here with you. I,

Expo Radio - Rob 00:27

as I said to you earlier, I always ask my guests to give me a little their history and how they got involved in the advocacy and the re entry issues. Could you share a little bit of what you shared with me earlier?

Tom Gilbert 00:40

Yeah, yeah. I my wife and I have two adopted sons, and the younger one is was affected by his birth mother with fetal alcohol, and so he has a hard time making really good decisions. And he's crossed the line with with laws, and has been involved with the legal system since he was a mid teen, juvenile, and once he got into the adult range, he got involved with someone and was party to a crime and got sentenced to Five years in state prison. He's been out and then revoked back to prison two different times. And the overcrowding in our prisons and the excessive revocations, when I learned that there was a law already on the books passed by the legislature in 2014 for the purpose of reducing revocations. I started asking questions of why the Department of Corrections has not implemented this law to cut down on revocations. What

Expo Radio - Rob 01:52

did they say when you asked those questions? Or did they say anything?

Tom Gilbert 01:59

Well, the law itself says that the department shall promulgate rules to set up a system of short term sanctions. And the first time I was in a meeting with Doc leadership, I asked that question, why haven't you implemented these rules, this law by having proposed rules and a public hearing which we could then provide public input on. And the head of the DLC at that time, Kevin Carr, said, Well, let me talk to our legal people, and we'll get back to you on that. So at the next meeting, he said, Well, I talked to our legal people, and they said, implementing this law and issuing those rules is discretionary. And I said, Well, Mr. Secretary, I worked my whole career for the federal government, and I understand the difference when a law says you shall versus you May. May is discretionary. Shall means you must do it and you must issue rules. So he went back, and next time we had a meeting, he said, We believe we are implementing the spirit of the law. And I said, Well, you also must implement the letter of the law. And that was just before the pandemic, and now here we are, five years later, and they're finally issuing rules. And the rules that they have proposed, from my perspective of studying this issue and understanding the law, the rules that they are proposing are very disappointing.

Expo Radio - Rob 03:40

What? Is this? This? Called this law that you're referring to, or bill?

Tom Gilbert 03:47

Well, the law itself is officially cited as 2013 act 196 it does. We all refer to it as the short term Sanctions Act, because that's what the law says. You must set up a system of short term sanctions by proposing and adopting rules that create this system. And that's that's what we're looking at. It was, it was enacted by the legislature in 2014 signed by Governor Walker. It had bipartisan support when it was when the committee on corrections in the assembly had a hearing on it and then voted whether to advance it to a vote in the assembly. The vote of the committee Republicans and Democrats was nine to zero in favor of reporting to this this bill. So it was bipartisan, introduced, sponsored and reported to the assembly, and then it was passed by both houses and signed by Governor Walker.

Expo Radio - Rob 04:56

So I know from the brief conversation that. How do you feel when something is supposed to be there that directly impacts you and your family and nothing's happened

Tom Gilbert 05:11

well? As a federal employee, all my career, I was often grieved when there was a law, or there were regulations that an agency was simply ignoring, and I did not like it, even within my own agency, when they were ignoring what the law says, I had a campaign for 28 years during my working career within my own agency to point out that they were not following the law relating to the Ice Age National Scenic Trail here in Wisconsin that I was superintendent of. So I think we can't ignore it, and especially when it's a very good law that would provide different kinds of sanctions than revoking people back to prison for an average of 18 months,

Expo Radio - Rob 06:06

it would also save hundreds of millions of dollars.

Tom Gilbert 06:13

Absolutely, absolutely, you know, we know that, for instance, treatment, alternatives and diversions, I think the figure is about \$4 saved for every \$1 spent on treatment, alternatives and diversion to save about \$4 on incarceration.

Expo Radio - Rob 06:33

And that's evidence based, and they had to fight forever to get them to give money in the budget for that. And it's expanded a couple times too. Not enough, but it's, you know, it's a good thing to see it expanding. Yeah. So right now, where is your son at?

Tom Gilbert 06:53

Our son is living in our home here in Madison, unemployed because they denied him the best job opportunity he had, the one he had before his last revocation. And he's probably applied for at least 100 other jobs, but is never gets to the interview point because of what he has to put on the application or what's in his resume, what

Expo Radio - Rob 07:18

was on the application that was the box was supposed to be eliminated, yeah, Madison in Milwaukee,

Tom Gilbert 07:27

yeah, well, I've helped him with some online applications. And there are questions on these online applications. I've seen it. We've answered them. You know, I haven't been done all of them, but sometimes he's had me help them. And you know, some of these were, you know, big national corporations operating stores, and they had questions on them. Have you ever been arrested, or whatever? Yep,

Expo Radio - Rob 07:55

and they're not supposed to ask that.

Speaker 1 07:58

No, but there's still get away with

Expo Radio - Rob 08:01

it, yeah. So you're at home with your wife and your son, so what are the challenges that you have as a family with your son being a part of this system that's extremely unfair, and it's like an extended sentence. Well, that's the way I see it, from my experience. But you're a parent. How does that impact you?

Tom Gilbert 08:27

Well, you know, he wears a GPS monitor, and so he needs permission from his agent to leave the county, and fortunately, they have given him a blanket permission to attend a Bible study group that we go to that's down in Janesville every Sunday, so he can go with us to Janesville to that Bible study when we wanted to take a trip up To Door County in our motor home over Mother's Day weekend stay in a private RV park, they would not let him go with us because they won't allow him to be in a campground or an RV park, even though we are approved, approved chaperones for him. And so we

ended up making a one day up and back with no overnight in our motor home, up to Door County on Mother's Day. Oh, wow, in May, it was a long day. We left at 530 in the morning, got back at

Expo Radio - Rob 09:32

1030 at night. I say it was a long day.

Tom Gilbert 09:36

You know, our son has expressed interest in going to Gettysburg National Military Park in Pennsylvania. But we don't even Well, we haven't even asked yet, because we need to stay overnight in RV parks or campgrounds, and I anticipate they would tell him no. So so we we sometimes feel like we are under house arrest ourselves. Mm. Yeah, because he cannot travel and do the traveling we like to do when we are in the retirement years here.

Expo Radio - Rob 10:10

So a lot of decisions or lack of decisions from the Department of Corrections don't just impact the person that was incarcerated. And I think you're doing a great job of explaining that it's there's this multiplier effect. If you have one person's incarcerated, it says immediate family, his extended family, his neighborhood and community are all impacted by the actions. And the thing that gets me in listening to you is like, if you served your time, why don't you let me leave me alone, let me live a life, let me be productive.

Tom Gilbert 10:49

Yes, as I've been studying the rule making actions that the Department of Corrections has taken regarding other laws, there's a section on on a questionnaire that they have to fill out when they're going to propose rules. And one of them asks who will be affected by this rule if adopted. And every one of them that I looked at, and I only looked at three or four different other rule makings, it said, well, the people affected by our rulemaking will be our our staff, the DLC staff, and the people who are people in our care, or people in our supervision, or whatever the the terms they use and And in the letter that I wrote to Secretary car back in February of 2024 just before he retired, I made that point that that is an inadequate answer, that they need to step back and not see that these rules just affect them As an agency and the people that are under their jurisdiction. But it affects families, it affects employers, it affects health care systems. It affects communities. And so I wanted to emphasize, and I will be emphasizing, when this point, when I comment on these rules, on the public virtual public hearing on July 8, that the decision they make on these rules and whatever policies they may implement or create in response to these rules, they need to understand they're affecting whole communities that these people are attempting to re enter, not just their staff who supervise them and the person being supervised,

Expo Radio - Rob 12:49

that that's just common sense, right?

Tom Gilbert 12:51

It is common sense. It's a ripple effect. But they, they, either don't see it or don't want to acknowledge it. It seems

Expo Radio - Rob 13:05

well, I believe they see it. I believe you're right in saying they don't want to acknowledge it, because good old boys club would have to change their policies and perspectives. I've heard people talk, I know you've heard some of this too about club. Closing some of the prisons to save money. It just makes sense stop overcrowding people. Half the people that are incarcerated now are there for revocations and don't need to be there. I'm hoping your son that doesn't go through any of that, because I know people get very frustrated when, okay, well, I wore the wrong color of socks last Tuesday, so you're going to send me back my shoes didn't match the, I don't know, the demeanor that you wanted when I came in. I came in right from work, and I was all sweaty and stinky. I mean, those are actually things that people have been sent back for. I'm exaggerating. It's a little bit of exaggeration, but there's a lot of truth to it, and that that needs to change, and the good old boys don't want to change it,

Tom Gilbert 14:14

yeah, one of the reasons I am not encouraged by the proposed rule that they have just announced last Monday, last week, Monday they posted the notice is that, while the person I was communicating with in the department said that the rules are going to adopt is are going to merely restate what the law says. And I said, Well, if you simply restate the law, you haven't implemented the law by issuing the rules to create the system. He said, Well, we're going to, we're going to respond to the rules, which will quote the law by creating new policies and procedures to implement those rules. And the law. And I said, well, that that sounds reasonable. And he said, The reason we do that want to do it that way is that rules are very, very hard to change. They have to go through this very long formal process and involve the legislature.

Speaker 2 15:15

Well, that's been 10 years. Yeah, it's been 10 years.

Tom Gilbert 15:22

But and I said, Well, I understand that, because I worked with rules and regulations at the federal level, so I guess I can see that well. But then, when the rule came out, the rule that they proposed only quotes the eight features that are supposed to characterize the system of short term sanctions are supposed to create the rule does not use the word short term and it does not use the word system. So the whole kind of big umbrella of what they are supposed to do in response to this law of creating a system of short term sanctions that's never mentioned in the rule. They only mention the eight features that are supposed to be in that system, and they say they're just going to adopt those into their existing evidence based response to violation system, and in that system, a short term sanction can be up to 90 days incarceration. And one of the eight features that's very important in the law says that in deciding upon a sanction for a rule violation, the doc agent must take into account the person's employment. And anybody with any common sense knows that 90 days, 45 days, 30 days, 21 even 14 or seven days of incarceration will result in you losing your job and your apartment that too. The law does not specifically mention housing, but it does mention minimizing the effect on your family and that kind of gets into housing. So I have real concern that they are not redefining a short term sanction in these rules, and they are not talking about a system. And the law says that they must. The system must produce a list, a list of the sanctions for the most common violations, and the what I have

communicated to them already, to Secretary car and Secretary hoy in letters, is that what this is asking for is transparency in your supervision of the people that they know before they even think about violating a Rule, they know what the sanction is going to be for that for a first time or a second time or a third time violating that rule, and that's the only way it makes sense, without having such a transparent and public list, then it's up To the capricious discretion of agents and their supervisors,

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and there's so much truth in that last statement, because that's the way they do things. Now, there, there's not well there, there might be a little bit more now, but there wasn't a single set of rules for everybody coming out. They claimed there was, but they didn't provide them to and the PO would create their own rules, and it was your responsibility to know what they were, even though they never gave them to you in writing. How does that make any sense? So if I ask you about my rules, you'll get upset with me because I'm asking you a question, and you'll take it as confrontational, but you've never given me anything in writing. You know, that's what happened to me. So,

Tom Gilbert 19:03

yeah, well, I have, right in a drawer next to me, I have a copy of my son's written rules so that I can refer to them when I need to

Expo Radio - Rob 19:11

how many, how many written rules does you have? Just our curiosity?

Tom Gilbert 19:16

Oh, my goodness, I've forgotten what I added up. But you know, he's got standard rule. They've got, you know, three categories of rules. You've got the standard rules, and I think there's about 18 of those. Then there are individual rules for the particular supervisee. And then, because he's on the sex offender registry, he's got another list of how many more, 31 about 40 more other rules, because he's on the sex offender registry, so he's got 50 or 60 rules to pay attention to.

Expo Radio - Rob 19:55

When I was still on probation, I would go to. The SOT groups. And one time we talked about, what do you do if you're trying to go somewhere and you're at a bus stop? Well, in Milwaukee, in the Milwaukee area, if you're at a bus stop in West Allis, at that time, it was classified as a park, so you couldn't use a bus. They didn't want anybody on the register to live there. And then someone said, Well, if there's some kids that are getting on the bus, then you have to wait for the next bus. I said my response was, No, I'm sitting as close to the driver as I possibly can, because how am I supposed to go anywhere and get to a meeting if I'm going to use a bus and the bus company or the community where the bus runs blocks every opportunity. So it's just completely backwards, so I understand where you're coming from with that.

Tom Gilbert 20:49

Yeah, we, we asked permission. He asked permission to go to to a graduation party for my wife's nephew up in Minneapolis, St Paul area in June. And his agent said, are there going to be any miners there? And he said, Yes. And then she said, he can't go so and the thing about it is that rule is in place,

and it's kind of standard as I understand it. And yet his the the he was party to a crime of a sexual he didn't do the sexual assault, but somebody he was with did. So he gets charged and on the registry, but it did not involve a minor, and yet he can't be around minors. So that's that's a bit frustrating, because they treat, it seems every at least from our vantage point, with our son's experience, they treat him as if he's a pedophile. But no minors were involved, and he wasn't even the one that did it. It was the person he was with.

Expo Radio - Rob 22:02

They put everybody that's on the register in the same basket. They don't look at individual cases or what the person's doing or not doing. You're all the same in their eyes, which is not true, but that's the way they looked at it. Yeah.

Tom Gilbert 22:17

So I would say, you know, to any who are listening that that this set of rules that is really all about community corrections and how the department administers their community corrections program and how it should be changing. As far as revocations is concerned. This this is a formal opportunity where people who understand this issue, who have lived this issue, and who are involved as advocates for these kinds of issues, and people need to take this opportunity to communicate, either at the public hearing, which is online on July 8, or through the written public comments, which is open until August 8, to talk about how you feel they should be Changing their system of community corrections and supervision. I mean, it's, it's technically, it's about these rules. But these rules open the whole, the whole realm of how they're how they're managing supervision and sending people back to prison. And people should take the opportunity to write and tell them what they think of these rules and why they may be deficient, and we don't have lots of confidence in what they might do as far as improving supervision as a result of these rules. So I think people ought to make recommendations of how this whole system should change to improve and the supervision to make people more successful in re entering their community, and thereby bring down the population of our prisons, enabling the closing of the older prisons with no new rebuilds.

Expo Radio - Rob 24:22

I appreciate that very much. So, like we said earlier, there's like 60,000 people in Wisconsin that are actively involved with the correction system today, and about in Milwaukee, there's about 2400 plus that return from incarceration annually. And it's like, it's, it's not like their sentences over, oh no, you're going back home. They know that they're going back home. They know they're going to be released. They wouldn't be released if they weren't up. Proved so why is it that you don't provide the individual the support he or she needs when they go home? Instead, you set traps for them and hope they'll fall into your trap.

Speaker 1 25:17

Yeah, yeah,

Expo Radio - Rob 25:19

if the POS and the Department of Corrections, upon a person's release, looked at the person, and I heard Kevin Carr say this on more than one occasion. Well, they're more of our clients than they are

criminals. We look at him as clients or versus ex cons. He said that, and he got a little bit of that language to change, but changing language and not changing the actions of the people using it. What does that do?

Tom Gilbert 25:47

Yeah, and, and I will say this, if anybody from the Department of Corrections is listening or hears about what we talked about, I will lay the challenge at their feet. Prove me. Prove me wrong. Prove all of us wrong that you're going to really make some some remarkable positive changes as a result of taking this one part of the act and pasting it into your existing supervision system. You know, make us all surprised in a positive way. Change this thing. But I will also say that in talking with some of the leadership of the department, they have said that in the community corrections program, when they have tried to make some changes in policy and procedure, they are getting pushback from their agents. They the agents have been, I think they're in such a culture of of negative perspective on these people, and such a negative culture that that seems to be based on punitive responses that they they just don't seem to want to to change and come into the real world, into the modern era. Let's say so. You know, I think, you know, when I was a supervisor in the federal government, you know, we did performance appraisals every year, you know, and I think people ought to be, you know, measured on how many people they make succeed, not how many people they send back to back to prison, but it seems the latter is almost,

Expo Radio - Rob 27:48

and that's kind of, I'm going to say that's kind of a myth, because everybody thinks that about their their setup to send you back. That's what it feels like, and that's what we see. I wish it would go completely the other way, like you said, and we're coming up on our final minute. So Tom, if someone wants to get a hold of you, can you give your email address?

Tom Gilbert 28:11

Sure, I'd be glad to My name again is Tom Gilbert, and my email address is T, O, M, j, A, N, G, so it's my name, my wife's name, and initial of our last name, Tom, Jan g@aol.com thank you very happy to communicate with anyone.

Expo Radio - Rob 28:36

All right. Thank you very much. Now, I appreciate everybody listening. Please tell friends and family, they can tune in online if they didn't hear us tonight, and if you know someone that would be a good guest, get a hold of me. And the contact information is posted on river West radio, under Expo radio, and I'm hoping Tom would come back public cruises. You.