1995 SENATE BILL 658

March 26, 1996 – Introduced by Senator DRZEWIECKI, cosponsored by Representative KAUFERT. Referred to Committee on State Government Operations and Corrections.

1   AN ACT *to renumber and amend* 946.42 (4); *to amend* 973.032 (4) (b) and

2   973.15 (2) (b); and *to create* 946.42 (4) (b) and 973.032 (4) (c) of the statutes;

3   **relating to:** the sentence of a person who escapes from the intensive sanctions

4   program.

Analysis by the Legislative Reference Bureau

Under current law, the department of corrections (DOC) administers the intensive sanctions program, which is designed to provide punishment for felony offenders that is less costly than ordinary imprisonment and more restrictive than ordinary probation or parole supervision. The intensive sanctions program participant receives a series of intensive and highly structured phases that are based on public safety considerations and the participant's needs for punishment and treatment.

Participants enter the intensive sanctions program by direct sentence from a judge, placement in the program by DOC, parole grant under a requirement that the parolee participate in the program or as an alternative to revocation of probation or parole. If a judge sentences an inmate to the program, the judge must set a maximum period for the sentence (which may not exceed the maximum term of imprisonment that could be imposed on the person) and must provide a maximum period during which the person may be put in certain placements (a prison or jail, county reforestation camp, residential treatment facility or community–based residential facility). The initial placement period may not exceed one year, but the judge may extend the period at the request of DOC as long as the total period of placement, including the original period and all extensions, is not more than 2 years or two–thirds of the maximum term of imprisonment that could have been imposed on the person, whichever is less.

If a person who has been sentenced to the intensive sanctions program intentionally fails to remain in or return as required to his or her placement or

confinement, he or she is guilty of escape. Currently, escape is punishable by imprisonment of not more than 5 years or a fine of not more than $10,000 or both. In addition, when sentencing a person found guilty of escape to imprisonment, the judge must impose the sentence consecutive to the sentence the person was serving when he or she escaped.

This bill provides that if a person who is sentenced to the intensive sanctions program escapes from the program and is found guilty of escape, the judge is not required when sentencing the person for the escape to impose a consecutive sentence of imprisonment but may instead impose a sentence of imprisonment that is concurrent with the sentence to the intensive sanctions program. The bill also provides that the court that originally sentenced the person to the intensive sanctions program may extend the placement period to not more than two–thirds of the maximum term of imprisonment that could have been imposed on the person, regardless of whether that period exceeds the 2–year limit provided under current law.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   **SECTION 1.** 946.42 (4) of the statutes is renumbered 946.42 (4) (a) and amended

2   to read:

3   946.42 **(4)** (a) ~~A~~ Except as provided in par. (b), a court shall impose a sentence

4   under this section consecutive to any sentence previously imposed or which may be

5   imposed for any crime or offense for which the person was in custody when he or she

6   escaped.

7   **SECTION 2.** 946.42 (4) (b) of the statutes is created to read:

8   946.42 **(4)** (b) If the person escaped while serving a sentence to the intensive

9   sanctions program, a court may impose a sentence under this section concurrent to

10   the sentence to the intensive sanctions program.

11   **SECTION 3.** 973.032 (4) (b) of the statutes is amended to read:

12   973.032 **(4)** (b)   The department may request that the court extend the

13   maximum period provided by the court under sub. (3) (a) or the maximum period

1   provided by the court under sub. (3) (b) or both. Unless a hearing is voluntarily

2   waived by the person, the court shall hold a hearing on the matter. The court may

3   not extend the maximum period of the sentence beyond the amount allowable under

4   sub. (3) (a). ~~The~~ Except as provided in par. (c), the court may not extend the

5   maximum period for placements under s. 301.048 (3) (a) 1. beyond a total, including

6   the original period and all extensions, of 2 years or two–thirds of the maximum term

7   of imprisonment that could have been imposed on the person, whichever is less.

8   **SECTION 4.** 973.032 (4) (c) of the statutes is created to read:

9   973.032 **(4)** (c) The court may extend under par. (b) the maximum period for

10   placements under s. 301.048 (3) (a) 1. to a period not exceeding two–thirds of the

11   maximum term of imprisonment that could have been imposed on the person under

12   sub. (3) (a) for his or her sentence to the intensive sanctions program if all of the

13   following apply:

14   1. The person escaped from a sentence to the intensive sanctions program.

15   2. The person is sentenced for the escape under s. 946.42 (4) (b) to a sentence

16   of imprisonment concurrent with the sentence to the intensive sanctions program.

17   3. The sentence under subd. 2. exceeds the total of the maximum period

18   originally provided by the court under sub. (3) (b) for the sentence to the intensive

19   sanctions program and the maximum extensions available under par. (b).

20   **SECTION 5.** 973.15 (2) (b) of the statutes is amended to read:

21   973.15 **(2)** (b) The court may not impose a sentence to the intensive sanctions

22   program consecutive to any other sentence. The court may not impose a sentence to

23   the intensive sanctions program concurrent with a sentence imposing

24   imprisonment, except that the court may impose a sentence to the program

25   concurrent with an imposed and stayed imprisonment sentence or with a prison

1   sentence for which the offender has been released on parole. The court may impose

2   concurrent intensive sanctions program sentences. The court may impose an

3   intensive sanctions program sentence concurrent to probation. <u>The court may</u>

4   <u>impose any sentence for an escape from a sentence to the intensive sanctions</u>

5   <u>program concurrent with the sentence to the intensive sanctions program.</u>

6   **(END)**