



1997 ASSEMBLY BILL 204

March 20, 1997 - Introduced by Representatives ALBERS, DOBYNS, PORTER, LAZICH, HAHN, LADWIG, MUSSER, AINSWORTH, LA FAVE, OWENS, GROTHMAN, FREESE, F. LASEE, BRANDEMUEHL, GOETSCH, PLALE, SYKORA, GUNDERSON and ZUKOWSKI, cosponsored by Senators SCHULTZ, FITZGERALD, GROBSCHMIDT, CLAUSING, ZIEN, HUELSMAN, PANZER, WELCH and ROSENZWEIG. Referred to Committee on Judiciary.

1 **AN ACT to amend** 809.31 (1), 969.01 (2) (b), 969.01 (2) (c) and 969.01 (2) (e) of the
2 statutes; **relating to:** release of certain persons convicted of a misdemeanor
3 pending appeal.

Analysis by the Legislative Reference Bureau

Under current law, if a person who is convicted of a misdemeanor is a repeat offender, the maximum term of imprisonment for the misdemeanor may be increased by not more than 3 years. A person is a repeat offender if, during the 5-year period immediately preceding the commission of the misdemeanor for which he or she is being sentenced, the person was either: 1) convicted of a felony; or 2) convicted of a misdemeanor on 3 separate occasions.

Also, under current law a person who has been convicted of a crime and sentenced to imprisonment and who is appealing his or her conviction may seek release from the sentence of imprisonment while his or her appeal is pending. If the person has been convicted of a felony, the trial court may allow the person to be released while the appeal is pending, but the trial court is not required to do so. If the court does order the person released while the appeal is pending, the court must set appropriate conditions of release, which may include monetary conditions of release (bail) if that is necessary to assure the appearance of the person. If the person has been convicted of a misdemeanor, the court must allow release under appropriate conditions.

This bill eliminates the requirement that a person convicted of a misdemeanor be released pending appeal of the misdemeanor conviction if that person is a repeat

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offender who was given an increased sentence for the misdemeanor. Instead, under the bill a court may, but is not required to, release the person while his or her appeal is pending. If the court does order the person released while the appeal is pending, the court must set appropriate conditions of release. If the person is not a repeat offender who was given an increased sentence, the requirement under current law that a person convicted of a misdemeanor be released pending appeal will still apply to that person.

For further information see the *state and local* 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.** 809.31 (1) of the statutes is amended to read:

2 809.31 (1) A defendant convicted of a misdemeanor or felony who is seeking
3 relief from a conviction and sentence of imprisonment or to the intensive sanctions
4 program and who seeks release on bond under s. 969.01 (2) (c) pending a
5 determination of a motion or appeal shall file in the trial court a motion seeking
6 release.

7 **SECTION 2.** 969.01 (2) (b) of the statutes is amended to read:

8 969.01 (2) (b) In misdemeanors other than misdemeanors specified in par. (c),
9 release shall be allowed upon appeal.

10 **SECTION 3.** 969.01 (2) (c) of the statutes is amended to read:

11 969.01 (2) (c) In misdemeanors in which an enhanced sentence under s. 939.62
12 (1) (a) was imposed on the defendant and in felonies, release may be allowed upon
13 appeal in the discretion of the trial court.

14 **SECTION 4.** 969.01 (2) (e) of the statutes is amended to read:

15 969.01 (2) (e) Any court or judge or any justice authorized to grant release
16 under par. (c) after conviction for a misdemeanor or felony may, in addition to the
17 powers granted in s. 969.08, revoke the order releasing a defendant.

