

1993 Assembly Bill 373

Date of enactment: **November 24, 1993**

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1993 WISCONSIN ACT 79

AN ACT *to repeal* 301.048 (3) (a) 4 and 301.048 (3) (a) 5; *to renumber* 301.048 (3) (a) 6, 301.048 (3) (a) 7 and 301.048 (3) (a) 8; *to amend* 301.048 (4) (a), 301.048 (5), 302.11 (6), 304.02 (4), 304.06 (1) (b), 973.032 (3) (c) 2, 973.032 (5) and 973.15 (2) (b); and *to create* 301.048 (3) (c), 301.048 (3) (d), 301.048 (4) (am) and 304.06 (1y) of the statutes, **relating to:** the intensive sanctions program.

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

SECTION 1. 301.048 (3) (a) 4. of the statutes is repealed.

SECTION 2. 301.048 (3) (a) 5. of the statutes is repealed.

SECTION 3. 301.048 (3) (a) 6. of the statutes is renumbered 301.048 (3) (a) 4.

SECTION 4. 301.048 (3) (a) 7. of the statutes is renumbered 301.048 (3) (a) 5.

SECTION 5. 301.048 (3) (a) 8. of the statutes is renumbered 301.048 (3) (a) 6.

SECTION 6. 301.048 (3) (c) of the statutes is created to read:

301.048 (3) (c) The department may provide a participant with alcohol or other drug abuse outpatient treatment and services or mental health treatment and services.

SECTION 7. 301.048 (3) (d) of the statutes is created to read:

301.048 (3) (d) A person may seek review of a final decision of the department of corrections, or of the division of hearings and appeals in the department of administration acting under s. 304.06 (3), relating to sanctions, discipline or revocation under or termination from the intensive sanctions program only by the common law writ of certiorari.

SECTION 8. 301.048 (4) (a) of the statutes is amended to read:

301.048 (4) (a) A participant is in the custody and under the control of the department, subject to its rules and discipline. A participant entering the program under sub. (2) (a) or (b) is a prisoner, ~~except as provided in s. 302.11(6).~~ A participant entering the program under sub. (2) (c) is a prisoner, except that he or she is a parolee for purposes of revocation. A participant entering the program under sub. (2) (d) is a prisoner, except that he or she remains a probationer or parolee, whichever is applicable, for purposes of revocation.

SECTION 9. 301.048 (4) (am) of the statutes is created to read:

301.048 (4) (am) A participant who is a parolee for purposes of revocation is subject to revocation for violation of any condition of parole or any rule or condition applicable because he or she is a program participant. A participant who is a probationer for purposes of revocation is subject to revocation for violation of any condition of probation or any rule or condition applicable because he or she is a program participant.

SECTION 10. 301.048 (5) of the statutes is amended to read:

301.048 (5) ESCAPE. Any intentional failure of a participant to remain within the extended limits of his or her placement or confinement under sub. (3) (a) 4 or to return within the time prescribed by the administrator of the division is considered an escape under s. 946.42 (3) (a).

SECTION 11. 302.11 (6) of the statutes is amended to read:

1993 Assembly Bill 373

302.11 (6) Any inmate released on parole under sub. (1) or s. 304.02 or 304.06 (1) is subject to all conditions and rules of parole until the expiration of the sentence or until he or she is discharged by the department. Except as provided in ch. 304, releases from prison shall be on the Tuesday or Wednesday preceding the release date. The department may discharge a parolee on or after his or her mandatory release date or after 2 years of supervision. Any inmate sentenced to the intensive sanctions program who is released on parole under sub. (1) or s. 304.02 or 304.06 (1) remains in the program unless discharged by the department under s. 301.048 (6).

SECTION 12. 304.02 (4) of the statutes is amended to read:

304.02 (4) ~~Notwithstanding subs. (1) to (3), if~~ If a person is sentenced under s. 973.032, he or she is ~~not~~ eligible for a release to parole supervision under this section and remains in the intensive sanctions program unless discharged by the department under s. 301.048 (6).

SECTION 13. 304.06 (1) (b) of the statutes is amended to read:

304.06 (1) (b) Except as provided in sub. (1m) or s. 161.49 (2), ~~or 302.045 (3) or 973.032 (5),~~ the parole commission may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in the Milwaukee county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25% of the sentence imposed for the offense, or 6 months, whichever is greater. Except as provided in s. 973.014, the parole commission may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension using the formulas under s. 302.11 (2). The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department or the parole commission shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing.

SECTION 14. 304.06 (1y) of the statutes is created to read:

304.06 (1y) If a person is sentenced under s. 973.032, he or she is eligible for a release to parole supervision under this section and remains in the intensive sanctions program unless discharged by the department under s. 301.048 (6).

SECTION 15. 973.032 (3) (c) 2. of the statutes is amended to read:

973.032 (3) (c) 2. The court may prescribe reasonable and necessary conditions of the sentence in accordance with s. 301.048 (3), except the court may not specify a particular Type 1 prison, jail, camp or facility where the offender is to be placed under s. 301.048 (3) (a) and the court may not restrict the department's authority under s. 301.048 (3) (b) ~~or (c).~~

SECTION 16. 973.032 (5) of the statutes is amended to read:

973.032 (5) PAROLE RESTRICTIONS. A person sentenced under sub. (1) is ~~not~~ eligible for parole ~~except~~ as provided in s. ~~ss.~~ ss. 302.11, 304.02 and 304.06.

SECTION 16m. 973.15 (2) (b) of the statutes is amended to read:

973.15 (2) (b) The court may not impose a sentence to the intensive sanctions program consecutive to any other sentence. The court may not impose a sentence to the intensive sanctions program concurrent with a sentence imposing imprisonment, except that the court may impose a sentence to the program concurrent with an imposed and stayed imprisonment sentence or with a prison sentence for which the offender has been released on parole. The court may impose concurrent intensive sanctions program sentences. The court may impose an intensive sanctions program sentence ~~concurrent to any nonintensive sanctions program sentence that does not include any imprisonment or concurrent to probation.~~

SECTION 17. Initial applicability; corrections. (1) INTENSIVE SANCTIONS PROGRAM; PAROLE RELEASE. The treatment of sections 302.11 (6), 304.02 (4), 304.06 (1) (b) and (1y) and 973.032 (5) of the statutes first applies to releases on parole occurring on the effective date of this subsection.

(2) INTENSIVE SANCTIONS; PROBATION OR PAROLE REVOCATION. The treatment of section 301.048 (4) (a) and (am) of the statutes first applies to participants in the intensive sanctions program on the effective date of this subsection, regardless of the date on which those persons entered the program.

(3) ESCAPE, INTENSIVE SANCTIONS PROGRAM. The treatment of section 301.048 (5) of the statutes first applies to offenses occurring on the effective date of this subsection.

(4) SENTENCE TO INTENSIVE SANCTIONS PROGRAM. The treatment of section 973.15 (2) (b) of the statutes first applies to sentences imposed on the effective date of this subsection.