

1993 Senate Bill 488

Date of enactment: **December 10, 1993**  
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# 1993 WISCONSIN ACT 97

AN ACT *to renumber* 301.046 (4); *to amend* 19.85 (1) (d), 302.11 (5), 304.02 (2), 304.06 (1) (d) 1, 304.06 (1) (g) and 950.045; and *to create* 301.046 (4) (a) to (d), 301.048 (4m), 304.06 (1) (d) 3m, 304.06 (1) (em), 304.063, 901.04 (3) (cm), 939.623, 939.624 and 972.11 (2) (d) of the statutes, **relating to:** mandatory minimum sentences for certain repeat criminal offenders; input in the parole decision-making process; notification to crime victims and protected persons; admissibility of evidence regarding the manner of dress of a complaining witness; granting rule-making authority; and providing a penalty.

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

**SECTION 1.** 19.85 (1) (d) of the statutes is amended to read:

19.85 (1) (d) ~~Considering~~ Except as provided by rule promulgated under s. 304.06 (1) (em), considering specific applications of probation or parole, or considering strategy for crime detection or prevention.

**SECTION 2.** 301.046 (4) of the statutes is renumbered 301.046 (4) (e).

**SECTION 3.** 301.046 (4) (a) to (d) of the statutes are created to read:

301.046 (4) (a) In this subsection:

1. "Member of the family" means spouse, child, sibling, parent or legal guardian.
2. "Victim" means a person against whom a crime has been committed.

(b) Before a prisoner is confined under sub. (1) for a violation of s. 940.03, 940.05, 940.225 (1) or (2) or 948.02 (1) or (2), the department shall make a reasonable effort to notify the following person, if he or she can be found, in accordance with par. (c) and after receiving a completed card under par. (d): the victim of the crime committed by the inmate or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

(c) The department shall make a reasonable effort to send the notice, postmarked at least 7 days before a prisoner is confined under sub. (1), to the last-known address of the person under par. (b).

(d) The department shall design and prepare cards for any person specified in par. (b) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable prisoner and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (b). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

**SECTION 4.** 301.048 (4m) of the statutes is created to read:

301.048 (4m) NOTIFICATION. (a) In this subsection:

1. "Member of the family" means spouse, child, sibling, parent or legal guardian.
2. "Victim" means a person against whom a crime has been committed.

(b) As soon as possible after a prisoner, probationer or parolee who has violated s. 940.03, 940.05, 940.225 (1) or (2) or 948.02 (1) or (2) enters the intensive sanctions program, the department shall make a reasonable

effort to notify the following person, if he or she can be found, in accordance with par. (c) and after receiving a completed card under par. (d): the victim of the crime committed by the inmate or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

(c) The department shall make a reasonable effort to send the notice to the last-known address of the person under par. (b).

(d) The department shall design and prepare cards for any person specified in par. (b) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable participant and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (b). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

**SECTION 5.** 302.11 (5) of the statutes is amended to read:

302.11 (5) Before a person is released on parole under this section, the department shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified. If applicable, the department shall also comply with s. 304.063.

**SECTION 6.** 304.02 (2) of the statutes is amended to read:

304.02 (2) The department shall promulgate rules for the special action release program, including eligibility criteria, procedures for the secretary to decide whether to grant a prisoner a special action release to parole supervision, procedures for notifying persons, offices or agencies under s. 304.06 (1) (c) and (g) of releases, and conditions of release. If applicable, the department shall also comply with s. 304.063.

**SECTION 7.** 304.06 (1) (d) 1. of the statutes is amended to read:

304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons under par. (c) 1. to 3. of the manner in which they may provide written statements under this subsection and inform persons under par. (c) 3. who are victims, or family members of victims, of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1) or (2) or 948.02 (1) or (2) of the manner in which they may have direct input in the parole decision-making process under par. (em). The parole commission shall provide notice under this paragraph for an inmate's first

application for parole and, upon request, for subsequent applications for parole.

**SECTION 8.** 304.06 (1) (d) 3m of the statutes is created to read:

304.06 (1) (d) 3m. If applicable, the notice shall state the manner in which the person may have direct input in the parole decision-making process.

**SECTION 9.** 304.06 (1) (em) of the statutes is created to read:

304.06 (1) (em) The parole commission shall promulgate rules that provide a procedure to allow any person who is a victim, or a family member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1) or (2) or 948.02 (1) or (2) to have direct input in the parole decision-making process.

**SECTION 10.** 304.06 (1) (g) of the statutes is amended to read:

304.06 (1) (g) Before a person is released on parole under this subsection, the parole commission shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement under this paragraph does not apply if a municipal department or county sheriff submits to the parole commission a written statement waiving the right to be notified. If applicable, the department shall also comply with s. 304.063.

**SECTION 11.** 304.063 of the statutes is created to read:  
**304.063 Notification prior to release on parole. (1)**  
In this section:

(a) "Member of the family" means spouse, child, sibling, parent or legal guardian.

(b) "Victim" means a person against whom a crime has been committed.

(2) Before a prisoner is released on parole under s. 302.11, 304.02 or 304.06, if applicable, for a violation of s. 940.01, 940.03, 940.05, 940.225 (1) or (2) or 948.02 (1) or (2), the department shall make a reasonable effort to notify the following person, if he or she can be found, in accordance with sub. (3) and after receiving a completed card under sub. (4): the victim of the crime committed by the inmate or, if the victim died as a result of the crime, an adult member of the victim's family or, if the victim is younger than 18 years old, the victim's parent or legal guardian.

(3) The department shall make a reasonable effort to send the notice, postmarked at least 7 days before a prisoner is released on parole, to the last-known address of the person under sub. (2).

(4) The department shall design and prepare cards for any person specified in sub. (2) to send to the department. The cards shall have space for any such person to provide his or her name and address, the name of the applicable prisoner and any other information the department determines is necessary. The department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons

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specified in par. (b). These persons may send completed cards to the department. All department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1).

**SECTION 12g.** 901.04 (3) (cm) of the statutes is created to read:

901.04 (3) (cm) Admissibility of evidence specified in s. 972.11 (2) (d).

**SECTION 14.** 939.623 of the statutes is created to read:

**939.623 Increased penalty; repeat serious sex crimes.** (1) In this section, “serious sex crime” means a violation of s. 940.225 (1) or (2) or 948.02 (1) or (2).

(2) If a person has one or more prior convictions for a serious sex crime and subsequently commits a serious sex crime, the court shall sentence the person to not less than 5 years’ imprisonment, but otherwise the penalties for the crime apply, subject to any applicable penalty enhancement. The court shall not place the defendant on probation.

**SECTION 15.** 939.624 of the statutes is created to read:

**939.624 Increased penalty; repeat serious violent crimes.** (1) In this section, “serious violent crime” means a violation of s. 940.03 or 940.05.

(2) If a person has one or more prior convictions for a serious violent crime or a crime punishable by life imprisonment and subsequently commits a serious violent crime, the court shall sentence the person to not less than 5 years’ imprisonment, but otherwise the penalties for the crime apply, subject to any applicable penalty enhancement. The court shall not place the defendant on probation.

**SECTION 20.** 950.045 of the statutes is amended to read:

**950.045 (title) Victims; application for parole or pardon; releases; corrections programs.** Victims of crimes have the right to provide written statements concerning parole applications under s. 304.06 (1) (e), to have direct input in the parole decision-making process under s. 304.06 (1) (em) and to provide written statements concerning pardon applications under s. 304.10 (2). Victims of crimes have the right to be notified by district attorneys under s. 971.17 (4m) regarding conditional releases under s. 971.17. Victims of crimes have the right to be notified by the department of corrections under s. 301.046 (4) regarding community residential confinements, under s. 301.048 (4m) regarding participation in the intensive sanctions program and under s. 304.063 regarding parole releases.

**SECTION 21m.** 972.11 (2) (d) of the statutes is created to read:

972.11 (2) (d) 1. If the defendant is accused of a crime under s. 940.225, 948.02, 948.05 or 948.06, evidence of the manner of dress of the complaining witness at the time when the crime occurred is admissible only if it is

relevant to a contested issue at trial and its probative value substantially outweighs all of the following:

a. The danger of unfair prejudice, confusion of the issues or misleading the jury.

b. The considerations of undue delay, waste of time or needless presentation of cumulative evidence.

2. The court shall determine the admissibility of evidence under subd. 1 upon pretrial motion before it may be introduced at trial.

**SECTION 22. Nonstatutory provisions; corrections.** (1) REPORT ON NOTIFICATION. The department of corrections shall meet with interested persons to study different possible procedures for providing notice of the release on parole or placement in a community of a prisoner who has violated section 940.01, 940.03, 940.05, 940.225 (1) or (2) or 948.02 (1) or (2) of the statutes to a person who is protected against that prisoner by a domestic abuse restraining order or injunction, child abuse restraining order or injunction or harassment restraining order or injunction. Within 90 days after the effective date of this subsection, the department shall report its recommendations to the appropriate standing committees of the legislature in the manner provided under section 13.172 (3) of the statutes.

**SECTION 23. Nonstatutory provisions; health and social services.** (1) REPORT ON NOTIFICATION. The department of health and social services shall meet with interested persons to study different possible procedures for providing notice of the release from commitment or custody or placement in a community of a delinquent child or client subject to commitment to a person who is protected against that child or client by a domestic abuse restraining order or injunction, child abuse restraining order or injunction or harassment restraining order or injunction. The study relates only to those delinquent children or committed persons who violated or were alleged to have violated section 940.01, 940.03, 940.05, 940.225 (1) or (2) or 948.02 (1) or (2) of the statutes. Within 90 days after the effective date of this subsection, the department shall report its recommendations to the appropriate standing committees of the legislature in the manner provided under section 13.172 (3) of the statutes.

**SECTION 24. Initial applicability; corrections.** (1) NOTIFICATION TO CRIME VICTIMS. The treatment of sections 301.046 (4), 301.048 (4m), 302.11 (5), 304.02 (2), 304.06 (1) (g) and 304.063 of the statutes and the creation of section 301.046 (4) (a) to (d) of the statutes first apply to notifications made on the effective date of this subsection.

(2) DECISION-MAKING PROCESS. The treatment of sections 19.85 (1) (d) and 304.06 (1) (d) 1. and 3m and (em) of the statutes first applies to parole applications made on the effective date of this subsection.

**SECTION 25. Initial applicability; other.** (1p) REPEAT OFFENDERS. The treatment of sections 939.623

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and 939.624 of the statutes first applies to crimes committed on the effective date of this subsection, but does not preclude the counting of convictions for crimes committed prior to the effective date of this subsection as prior convictions under section 939.623 (2) or 939.624

(2) of the statutes, as created by this act.

(2) MANNER OF DRESS. The treatment of sections 901.04 (3) (cm) and 972.11 (2) (d) of the statutes first applies to criminal actions commenced on the effective date of this subsection.

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