

**2011 DRAFTING REQUEST**

**Bill**

Received: 03/30/2011

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Van Wanggaard (608) 266-1832

By/Representing:

May Contact:

Drafter: phurley

Subject: Correctional System - misc  
Correctional System - prisons  
Criminal Law - sentencing

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Wanggaard@legis.wisconsin.gov

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Earned release

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**Instructions:**

Companion to 11-1662

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 03/30/2011	wjackson 04/01/2011		_____			S&L
/1			phenry 04/04/2011	_____	sbasford 04/04/2011	ggodwin 04/04/2011	

FE Sent For:

*At Introduction*

<END>

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State of Wisconsin  
2011 - 2012 LEGISLATURE



1804

LRB-16621

PJH:wlj&nwn:md

stays MNR

2011 BILL

3-30-11

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Regen

1 AN ACT ~~to repeal~~ 302.042, 302.045 (3m) (d), 302.05 (3) (c) 3., 302.113 (2) (b),  
2 302.113 (2) (c), 302.113 (3) (e), 302.113 (9h), 302.1135, 304.06 (1) (bg), 304.06 (1)  
3 (bk), 304.06 (1) (bn), 304.06 (1) (br), 973.01 (3d), 973.01 (4m), 973.031, 973.09  
4 (3) (d) and 973.195 (1r) (j); **to renumber and amend** 302.05 (1) and 302.113  
5 (2) (a); **to amend** 15.01 (2), 15.06 (6), 15.145 (1), 17.07 (3m), 20.410 (2) (title),  
6 20.410 (2) (a), 20.923 (4) (b) 6., 230.08 (2) (pd), 301.03 (3), 301.048 (2) (am) 3.,  
7 301.21 (1m) (c), 301.21 (2m) (c), 302.045 (1), 302.045 (3), 302.05 (title), 302.05  
8 (2), 302.05 (3) (b), 302.05 (3) (c) 1., 302.05 (3) (c) 2. (intro.), 302.05 (3) (d), 302.11  
9 (1g) (b) (intro.), 302.11 (1g) (b) 2., 302.11 (1g) (c), 302.11 (1g) (d), 302.11 (1m),  
10 302.11 (7) (c), 302.113 (1), 302.113 (3) (d), 302.113 (7), 302.113 (9) (am), 302.113  
11 (9) (c), 302.114 (9) (am), 302.114 (9) (c), 304.01 (title), 304.01 (1), 304.01 (2)  
12 (intro.), 304.01 (2) (b), 304.01 (2) (c), 304.01 (2) (d), 304.06 (title), 304.06 (1) (b),  
13 304.06 (1) (c) (intro.), 304.06 (1) (d) 1., 304.06 (1) (d) 2., 304.06 (1) (d) 3m., 304.06  
14 (1) (d) 4., 304.06 (1) (e), 304.06 (1) (eg), 304.06 (1) (em), 304.06 (1) (f), 304.06 (1)

**BILL**

1 (g), 304.06 (1m) (intro.), 304.06 (1q) (b), 304.06 (1q) (c), 304.06 (1x), 304.06 (2m)  
2 (d), 304.06 (3), 304.06 (3e), 304.06 (3m), 304.071 (1), 801.50 (5), 809.30 (1) (c),  
3 911.01 (4) (c), 950.04 (1v) (f), 950.04 (1v) (g), 950.04 (1v) (gm), 950.04 (1v) (nt),  
4 973.01 (4), 973.01 (7), 973.195 (1r) (a), 974.07 (4) (b), 976.03 (23) (c) and 977.05  
5 (4) (jm); **to repeal and recreate** 302.045 (2) (d); and **to create** 302.043, 302.05  
6 (1) (am) 1., 302.05 (1) (am) 2., 302.05 (1) (b), 302.113 (9g) and 973.198 of the  
7 statutes; **relating to:** corrections and sentencing.

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***Analysis by the Legislative Reference Bureau***

2009 Wisconsin Act 28 (the Act) made several changes to the adult correctional system, most of which took effect on October 1, 2009. Prior to the effective date of the provisions relating to the adult correctional system (pre-Act), a person who was imprisoned for a felony he or she committed prior to December 31, 1999, was allowed to petition the parole commission in the Department of Corrections (DOC) to be released to parole after the person served 25 percent of his or her sentence, or six months, whichever was greater. The parole commission determined whether, and under what conditions, the person should be released to parole. A person who committed a felony on or after December 31, 1999, is sentenced to a bifurcated sentence, with the first portion of the sentence served in confinement and the second portion served under extended supervision in the community.

Pre-Act, a person who was serving a bifurcated sentence was, with few exceptions, required to serve the entire confinement portion of his or her sentence before being released to extended supervision. A person's confinement portion could have been extended if he or she violated a prison regulation. If a person's confinement portion was extended for such a violation, the law pre-Act required his or her extended supervision portion to be reduced so that the total length of the person's sentence remained unchanged.

The law pre-Act allowed a person who is sentenced to a bifurcated sentence for a Class C to Class I felony to petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served 85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement portion of the sentence. If a person's confinement portion was reduced by the sentencing court, the law pre-Act required his or her extended supervision portion to be extended so that the total length of the person's sentence remained unchanged. Pre-Act, a person who was released to extended supervision was required to serve his or her entire sentence before extended supervision terminated.

The Act renamed the parole commission the earned release review commission (ERRC) and allows most persons who are incarcerated for a Class C to Class I felony

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to earn "positive adjustment time" toward early release from confinement. Under the Act, the amount of positive adjustment time a person can earn varies depending on the classification of the felony, the person's history and likelihood of reoffending, and other factors determined by DOC.

The Act allows DOC to release the person to extended supervision when he or she serves his entire period of confinement, minus positive adjustment time earned, subject to court review. Under the Act, if a person's period of confinement is reduced by positive adjustment time, his or her period of extended supervision is increased so that the length of the sentence does not change. The Act requires the ERRC to perform the duties previously performed by the parole commission and to review petitions for early release from confinement.

Under the Act, the sentencing court could, at the time of sentencing, order a person to serve a risk reduction sentence. A person serving a risk reduction sentence could be eligible for early release to extended supervision if he or she complies with a treatment plan developed for the person by DOC.

Pre-Act, persons who had committed most felonies were allowed to petition the sentencing court for release to extended supervision for the remaining term of his or her sentence if the person had a terminal condition, reached age 65 after serving at least five years of his or her term of confinement portion, or reached age 60 after serving at least ten years of his or her term of confinement portion.

Under the Act, the petition may also be filed by a person with any serious health condition and must be submitted to the ERRC instead of to the sentencing court. In addition, under the Act, DOC may release to extended supervision any person serving the confinement portion of a bifurcated sentence if the person is not confined following a violent offense, the person is believed to be able to live in the community without assaulting another, and the release will not be more than 12 months before the date that the person otherwise would be eligible for release to extended supervision. If DOC releases a person, his or her term of extended supervision must be extended by the length of time he or she was originally sentenced to confinement so that the total length of the sentence does not change.

Pre-Act, if a person sentenced to a bifurcated sentence violated any condition of his or her release to extended supervision, the person's extended supervision was revoked, he or she was returned to prison, and the division of hearings and appeals within DOA or DOC (reviewing authority) made a recommendation to the court that convicted the person as to how long the person should remain in prison. After it received the reviewing authority's recommendation, the court was allowed to order the person to remain in prison for a period that did not exceed the time remaining on his or her bifurcated sentence.

Under the Act, the reviewing authority determines how long to imprison the person whose extended supervision is revoked and enters its own order for the person to remain in prison for a period that does not exceed the time remaining on his or her bifurcated sentence.

This bill eliminates positive adjustment time and risk reduction sentences, restores the parole commission, eliminates the ERRC, and returns the sentencing provisions, and most of the provisions relating to early release from confinement to

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pre-Act law. Under the bill, a person may petition the sentencing court for release to extended supervision for the remaining term of his or her sentence if the person has an extraordinary health condition, reaches age 65 after serving at least five years of his or her term of confinement portion, or reaches age 60 after serving at least ten years of his or her term of confinement portion.

Under the bill, a person who was sentenced after October 1, 2009, but before the effective date of the bill, and who earned positive adjustment time during that period may petition the sentencing court for an early release to extended supervision. If the sentencing court agrees to reduce the confinement portion of the person's sentence by the number of positive adjustment time days he or she earned, the sentencing court must increase the term of extended supervision by the same number of days. Under the bill, a person who was sentenced to a risk reduction sentence after October 1, 2009, but before the effective date of the bill and who complied with the program plan developed by DOC may be released to extended supervision after he or she serves at least 75 percent of the confinement portion of his or her sentence.

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

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

1           **SECTION 1.** 15.01 (2) of the statutes is amended to read:

2           15.01 (2) "Commission" means a 3-member governing body in charge of a  
3 department or independent agency or of a division or other subunit within a  
4 department, except for the Wisconsin waterways commission which shall consist of  
5 5 members and the ~~earned-release review~~ parole commission which shall consist of  
6 8 members. A Wisconsin group created for participation in a continuing interstate  
7 body, or the interstate body itself, shall be known as a "commission", but is not a  
8 commission for purposes of s. 15.06. The ~~earned-release review~~ parole commission  
9 created under s. 15.145 (1) shall be known as a "commission", but is not a commission  
10 for purposes of s. 15.06.

11           **SECTION 2.** 15.06 (6) of the statutes is amended to read:

12           15.06 (6) **QUORUM.** A majority of the membership of a commission constitutes  
13 a quorum to do business, except that vacancies shall not prevent a commission from

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1 doing business. This subsection does not apply to the ~~earned release review parole~~  
2 commission.

3 **SECTION 3.** 15.145 (1) of the statutes is amended to read:

4 15.145 (1) ~~EARNED RELEASE REVIEW~~ PAROLE COMMISSION. There is created in the  
5 department of corrections ~~an earned release review a parole~~ commission consisting  
6 of 8 members. Members shall have knowledge of or experience in corrections or  
7 criminal justice. The members shall include a chairperson who is nominated by the  
8 governor, and with the advice and consent of the senate appointed, for a 2-year term  
9 expiring March 1 of the odd-numbered years, subject to removal under s. 17.07 (3m),  
10 and the remaining members in the classified service appointed by the chairperson.

11 **SECTION 4.** 17.07 (3m) of the statutes is amended to read:

12 17.07 (3m) Notwithstanding sub. (3), the ~~earned release review parole~~  
13 commission chairperson may be removed by the governor, at pleasure.

14 **SECTION 5.** 20.410 (2) (title) of the statutes is amended to read:

15 20.410 (2) (title) ~~EARNED RELEASE REVIEW~~ PAROLE COMMISSION.

16 **SECTION 6.** 20.410 (2) (a) of the statutes is amended to read:

17 20.410 (2) (a) *General program operations.* The amounts in the schedule for  
18 the general program operations of the ~~earned release review parole~~ commission.

19 **SECTION 7.** 20.923 (4) (b) 6. of the statutes is amended to read:

20 20.923 (4) (b) 6. ~~Earned release review~~ Parole commission: chairperson.

21 **SECTION 8.** 230.08 (2) (pd) of the statutes is amended to read:

22 230.08 (2) (pd) The chairperson of the ~~earned release review parole~~  
23 commission.

24 **SECTION 9.** 301.03 (3) of the statutes is amended to read:

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1           301.03 (3) Administer parole, extended supervision, and probation matters,  
2           except that the decision to grant or deny parole ~~or to grant extended supervision~~  
3           ~~under s. 304.06 (1)~~ to inmates shall be made by the ~~earned release review~~ parole  
4           commission and the decision to revoke probation, extended supervision, or parole in  
5           cases in which there is no waiver of the right to a hearing shall be made by the  
6           division of hearings and appeals in the department of administration. The secretary  
7           may grant special action parole releases under s. 304.02. ~~The department may~~  
8           ~~discharge inmates from extended supervision under s. 973.01 (4m) and may modify~~  
9           ~~a bifurcated sentence under s. 302.113 (9h), and the earned release review~~  
10          ~~commission may modify a sentence under s. 302.1135.~~ The department shall  
11          promulgate rules establishing a drug testing program for probationers, parolees and  
12          persons placed on extended supervision. The rules shall provide for assessment of  
13          fees upon probationers, parolees and persons placed on extended supervision to  
14          partially offset the costs of the program.

15           **SECTION 10.** 301.048 (2) (am) 3. of the statutes is amended to read:

16           301.048 (2) (am) 3. The ~~earned release review~~ parole commission grants him  
17          or her parole under s. 304.06 and requires his or her participation in the program as  
18          a condition of parole under s. 304.06 (1x).

19           **SECTION 11.** 301.21 (1m) (c) of the statutes is amended to read:

20           301.21 (1m) (c) Any hearing to consider parole ~~or whether to grant extended~~  
21          ~~supervision, if the inmate is sentenced under s. 973.01~~ to which an inmate confined  
22          under this contract may be entitled by the laws of Wisconsin will be conducted by the  
23          Wisconsin ~~earned release review~~ parole commission under rules of the department.

24           **SECTION 12.** 301.21 (2m) (c) of the statutes is amended to read:

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1           301.21 (2m) (c) Any hearing to consider parole ~~or whether to grant extended~~  
2 ~~supervision, if the prisoner is sentenced under s. 973.01~~ to which a prisoner confined  
3 under a contract under this subsection may be entitled by the laws of Wisconsin shall  
4 be conducted by the Wisconsin ~~earned release review~~ parole commission under rules  
5 of the department.

6           **SECTION 13.** 302.042 of the statutes is repealed.

7           **SECTION 14.** 302.043 of the statutes is created to read:

8           **302.043 Release to extended supervision; risk reduction program.** The  
9 department shall release an inmate who is serving a risk reduction sentence imposed  
10 under s. 973.031, 2009 stats., to extended supervision when he or she serves not less  
11 than 75 percent of the term of confinement portion of his or her sentence imposed  
12 under s. 973.01 and the department determines that he or she has completed the  
13 programming or treatment under the plan designed by the department for the  
14 inmate and that the inmate maintained a good conduct record during his or her term  
15 of confinement. Not less than 30 days prior to release under this section, the  
16 department shall notify the sentencing court that the inmate has thus far  
17 successfully completed the requirements of his or her risk reduction sentence.

18           **SECTION 15.** 302.045 (1) of the statutes is amended to read:

19           302.045 (1) PROGRAM. The department shall provide a challenge incarceration  
20 program for inmates selected to participate under sub. (2). The program shall  
21 provide participants with manual labor, personal development counseling,  
22 substance abuse treatment and education, military drill and ceremony, counseling,  
23 and strenuous physical exercise, for participants who have not attained the age of  
24 30 as of the date on which they begin participating in the program, or  
25 age-appropriate strenuous physical exercise, for all other participants, in

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1 preparation for release on parole or extended supervision. ~~The program shall~~  
2 ~~provide, according to each participant's needs as assessed under sub. (2) (d),~~  
3 ~~substance abuse treatment and education, including intensive intervention when~~  
4 ~~indicated, personal development counseling, education, employment readiness~~  
5 ~~training, and other treatment options that are directly related to the participant's~~  
6 ~~criminal behavior.~~ The department shall design the program to include not less  
7 fewer than 50 participants at a time and so that a participant may complete the  
8 program in not more than 180 days. The department may restrict participant  
9 privileges as necessary to maintain discipline.

10 **SECTION 16.** 302.045 (2) (d) of the statutes is repealed and recreated to read:

11 302.045 (2) (d) The department determines, during assessment and  
12 evaluation, that the inmate has a substance abuse problem.

13 **SECTION 17.** 302.045 (3) of the statutes is amended to read:

14 302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department  
15 determines that an inmate serving a sentence other than one imposed under s.  
16 973.01 has successfully completed the challenge incarceration program, the ~~earned~~  
17 ~~release review parole~~ commission shall parole the inmate for that sentence under s.  
18 304.06, regardless of the time the inmate has served. When the ~~earned release~~  
19 ~~review parole~~ commission grants parole under this subsection, it must require the  
20 parolee to participate in an intensive supervision program ~~appropriate to the~~  
21 ~~parolee's rehabilitation needs for drug abusers~~ as a condition of parole.

22 **SECTION 18.** 302.045 (3m) (d) of the statutes is repealed.

23 **SECTION 19.** 302.05 (title) of the statutes is amended to read:

24 **302.05 (title) Wisconsin earned release substance abuse program.**

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1           **SECTION 20.** 302.05 (1) of the statutes is renumbered 302.05 (1) (am) (intro.)  
2 and amended to read:

3           302.05 (1) (am) (intro.) The department of corrections shall, ~~at any correctional~~  
4 ~~facility the department determines is appropriate, provide a rehabilitation program~~  
5 ~~for inmates for the purposes of the earned release program described in sub. (3). and~~  
6 the department of health services may designate a section of a mental health  
7 institute as a correctional treatment facility for the treatment of substance abuse of  
8 inmates transferred from Wisconsin state prisons. This section shall be  
9 administered by the department of corrections and shall be known as the Wisconsin  
10 substance abuse program. The department of corrections and the department of  
11 health services shall ensure that the residents at the institution and the residents  
12 in the substance abuse program:

13           **SECTION 21.** 302.05 (1) (am) 1. of the statutes is created to read:

14           302.05 (1) (am) 1. Have access to all facilities that are available at the  
15 institution and are necessary for the treatment programs designed by the  
16 departments.

17           **SECTION 22.** 302.05 (1) (am) 2. of the statutes is created to read:

18           302.05 (1) (am) 2. Are housed on separate wards.

19           **SECTION 23.** 302.05 (1) (b) of the statutes is created to read:

20           302.05 (1) (b) The department of corrections and the department of health  
21 services shall, at any correctional facility the departments determine is appropriate,  
22 provide a substance abuse treatment program for inmates for the purposes of the  
23 earned release program described in sub. (3).

24           **SECTION 24.** 302.05 (2) of the statutes is amended to read:

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1           302.05 (2) Transfer to a correctional treatment facility for ~~participation in a~~  
2 ~~program described in sub. (1)~~ the treatment of substance abuse shall be considered  
3 a transfer under s. 302.18.

4           **SECTION 25.** 302.05 (3) (b) of the statutes is amended to read:

5           302.05 (3) (b) Except as provided in par. (d), if the department determines that  
6 an eligible inmate serving a sentence other than one imposed under s. 973.01 has  
7 successfully completed a ~~rehabilitation~~ treatment program described in sub. (1), the  
8 ~~earned release review parole~~ commission shall parole the inmate for that sentence  
9 under s. 304.06, regardless of the time the inmate has served. If the ~~earned release~~  
10 ~~review parole~~ commission grants parole under this paragraph, it shall require the  
11 parolee to participate in an intensive supervision program ~~appropriate to the~~  
12 ~~parolee's rehabilitation needs for drug abusers~~ as a condition of parole.

13           **SECTION 26.** 302.05 (3) (c) 1. of the statutes is amended to read:

14           302.05 (3) (c) 1. Except as provided in par. (d), if the department determines  
15 that an eligible inmate serving the term of confinement in prison portion of a  
16 bifurcated sentence imposed under s. 973.01 has successfully completed a  
17 ~~rehabilitation~~ treatment program described in sub. (1), the department shall inform  
18 the court that sentenced the inmate.

19           **SECTION 27.** 302.05 (3) (c) 2. (intro.) of the statutes, is amended to read:

20           302.05 (3) (c) 2. (intro.) Upon being informed by the department under subd.  
21 1. that an inmate whom the court sentenced under s. 973.01 has successfully  
22 completed a ~~rehabilitation~~ treatment program described in sub. (1), the court shall  
23 modify the inmate's bifurcated sentence as follows:

24           **SECTION 28.** 302.05 (3) (c) 3. of the statutes is repealed.

25           **SECTION 29.** 302.05 (3) (d) of the statutes is amended to read:

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1           302.05 (3) (d) The department may place intensive sanctions program  
2 participants in a ~~rehabilitation~~ treatment program described in sub. (1), but pars. (b)  
3 and (c) do not apply to those participants.

4           **SECTION 30.** 302.11 (1g) (b) (intro.) of the statutes is amended to read:

5           302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive  
6 mandatory release date reaches the presumptive mandatory release date specified  
7 under par. (am), the ~~earned release review~~ parole commission shall proceed under  
8 s. 304.06 (1) to consider whether to deny presumptive mandatory release to the  
9 inmate. If the ~~earned release review~~ parole commission does not deny presumptive  
10 mandatory release, the inmate shall be released on parole. The ~~earned release~~  
11 ~~review~~ parole commission may deny presumptive mandatory release to an inmate  
12 only on one or more of the following grounds:

13           **SECTION 31.** 302.11 (1g) (b) 2. of the statutes is amended to read:

14           302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or  
15 treatment that the social service and clinical staff of the institution determines is  
16 necessary for the inmate, including pharmacological treatment using an  
17 antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious  
18 child sex offender as defined in s. 304.06 (1q) (a). The ~~earned release review~~ parole  
19 commission may not deny presumptive mandatory release to an inmate because of  
20 the inmate's refusal to participate in a rehabilitation program under s. 301.047.

21           **SECTION 32.** 302.11 (1g) (c) of the statutes is amended to read:

22           302.11 (1g) (c) If the ~~earned release review~~ parole commission denies  
23 presumptive mandatory release to an inmate under par. (b), the ~~earned release~~  
24 ~~review~~ parole commission shall schedule regular reviews of the inmate's case to  
25 consider whether to parole the inmate under s. 304.06 (1).

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1           **SECTION 33.** 302.11 (1g) (d) of the statutes is amended to read:

2           302.11 (1g) (d) An inmate may seek review of a decision by the ~~earned release~~  
3 ~~review parole~~ commission relating to the denial of presumptive mandatory release  
4 only by the common law writ of certiorari.

5           **SECTION 34.** 302.11 (1m) of the statutes is amended to read:

6           302.11 (1m) An inmate serving a life term is not entitled to mandatory release.  
7 Except as provided in ss. 939.62 (2m) (c) and 973.014, the ~~earned release review~~  
8 ~~parole~~ commission may parole the inmate as specified in s. 304.06 (1).

9           **SECTION 35.** 302.11 (7) (c) of the statutes is amended to read:

10          302.11 (7) (c) The ~~earned release review parole~~ commission may subsequently  
11 parole, under s. 304.06 (1), and the department may subsequently parole, under s.  
12 304.02, a parolee who is returned to prison for violation of a condition of parole.

13          **SECTION 36.** 302.113 (1) of the statutes is amended to read:

14          302.113 (1) An inmate is subject to this section if he or she is serving a  
15 bifurcated sentence imposed under s. 973.01. ~~An inmate convicted of a misdemeanor~~  
16 ~~or of a Class F to Class I felony that is not a violent offense, as defined in s. 301.048~~  
17 ~~(2) (bm) 1., and who is eligible for positive adjustment time under sub. (2) (b)~~  
18 ~~pursuant to s. 973.01 (3d) (b) may be released to extended supervision under sub. (2)~~  
19 ~~(b) or (9h). An inmate convicted of a Class C to Class E felony or a Class F to Class~~  
20 ~~I felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1., or a Class F to~~  
21 ~~Class I felony that is not a violent offense, as defined under s. 301.048 (2) (bm) 1., but~~  
22 ~~who is ineligible for positive adjustment time under sub. (2) (b) pursuant to s. 973.01~~  
23 ~~(3d) (b) may be released to extended supervision only under sub. (2) (a) or (9h) or s.~~  
24 304.06.

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1           **SECTION 37.** 302.113 (2) (a) of the statutes is renumbered 302.113 (2) and  
2 amended to read:

3           302.113 (2) Except as provided in ~~par. (b) and~~ subs. (3) and (9) ~~and s. 304.06,~~  
4 an inmate subject to this section is entitled to release to extended supervision after  
5 he or she has served the term of confinement in prison portion of the sentence  
6 imposed under s. 973.01, ~~as modified by the department under sub. (9h), as modified~~  
7 ~~under s. 302.1135 by the earned release review commission in the manner specified~~  
8 ~~in s. 302.1135 (6) (a), or~~ as modified by the sentencing court under sub. (9g) or s.  
9 302.045 (3m) (b) 1., 302.05 (3) (c) 2. a., or 973.195 (1r), or 973.198, if applicable.

10           **SECTION 38.** 302.113 (2) (b) of the statutes is repealed.

11           **SECTION 39.** 302.113 (2) (c) of the statutes is repealed.

12           **SECTION 40.** 302.113 (3) (d) of the statutes is amended to read:

13           302.113 (3) (d) If the term of confinement in prison portion of a bifurcated  
14 sentence ~~for a Class B felony~~ is increased under this subsection, the term of extended  
15 supervision is reduced so that the total length of the bifurcated sentence does not  
16 change.

17           **SECTION 41.** 302.113 (3) (e) of the statutes is repealed.

18           **SECTION 42.** 302.113 (7) of the statutes is amended to read:

19           302.113 (7) Any inmate released to extended supervision under this section is  
20 subject to all conditions and rules of extended supervision until the expiration of the  
21 term of extended supervision portion of the bifurcated sentence ~~or until the~~  
22 ~~department discharges the inmate under s. 973.01 (4m), whichever is appropriate.~~  
23 The department may set conditions of extended supervision in addition to any  
24 conditions of extended supervision required under s. 302.116, if applicable, or set by

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1 the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do  
2 not conflict with the court's conditions.

3 **SECTION 43.** 302.113 (9) (am) of the statutes is amended to read:

4 302.113 (9) (am) If a person released to extended supervision under this section  
5 ~~or under s. 302.1135~~ violates a condition of extended supervision, the reviewing  
6 authority may revoke the extended supervision of the person. If the extended  
7 supervision of the person is revoked, the reviewing authority shall order the person  
8 to be returned to prison for any specified period of time that does not exceed the time  
9 remaining on the bifurcated sentence. The time remaining on the bifurcated  
10 sentence is the total length of the bifurcated sentence, less time served by the person  
11 in confinement under the sentence before release to extended supervision under sub.  
12 (2) and less all time served in confinement for previous revocations of extended  
13 supervision under the sentence. The order returning a person to prison under this  
14 paragraph shall provide the person whose extended supervision was revoked with  
15 credit in accordance with ss. 304.072 and 973.155.

16 **SECTION 44.** 302.113 (9) (c) of the statutes is amended to read:

17 302.113 (9) (c) A person who is subsequently released to extended supervision  
18 after service of the period of time specified by the order under par. (am) is subject to  
19 all conditions and rules under sub. (7) and, if applicable, sub. (7m) until the  
20 expiration of the remaining extended supervision portion of the bifurcated sentence  
21 ~~or until the department discharges the person under s. 973.01 (4m), whichever is~~  
22 ~~appropriate.~~ The remaining extended supervision portion of the bifurcated sentence  
23 is the total length of the bifurcated sentence, less the time served by the person in  
24 confinement under the bifurcated sentence before release to extended supervision

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1 under sub. (2) and less all time served in confinement for previous revocations of  
2 extended supervision under the bifurcated sentence.

3 **SECTION 45.** 302.113 (9g) of the statutes is created to read:

4 302.113 (9g) (a) In this subsection:

5 1. "Extraordinary health condition" means a condition afflicting a person, such  
6 as advanced age, infirmity, or disability of the person or a need for medical treatment  
7 or services not available within a correctional institution.

8 2. "Program review committee" means the committee at a correctional  
9 institution that reviews the security classifications, institution assignments, and  
10 correctional programming assignments of inmates confined in the institution.

11 (b) An inmate who is serving a bifurcated sentence for a crime other than a  
12 Class B felony may seek modification of the bifurcated sentence in the manner  
13 specified in par. (f) if he or she meets one of the following criteria:

14 1. The inmate is 65 years of age or older and has served at least 5 years of the  
15 term of confinement in prison portion of the bifurcated sentence.

16 2. The inmate is 60 years of age or older and has served at least 10 years of the  
17 term of confinement in prison portion of the bifurcated sentence.

18 3. The inmate has an extraordinary health condition.

19 (c) An inmate who meets a criterion under par. (b) may submit a petition to the  
20 program review committee at the correctional institution in which the inmate is  
21 confined requesting a modification of the inmate's bifurcated sentence in the manner  
22 specified in par. (f). If the inmate alleges in the petition that he or she has an  
23 extraordinary health condition, the inmate shall attach to the petition affidavits  
24 from 2 physicians setting forth a diagnosis that the inmate has an extraordinary  
25 health condition.

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1 (cm) If, after receiving the petition under par. (c), the program review  
2 committee determines that the public interest would be served by a modification of  
3 the inmate's bifurcated sentence in the manner provided under par. (f), the  
4 committee shall approve the petition for referral to the sentencing court and notify  
5 the department of its approval. The department shall then refer the inmate's  
6 petition to the sentencing court and request the court to conduct a hearing on the  
7 petition. If the program review committee determines that the public interest would  
8 not be served by a modification of the inmate's bifurcated sentence in the manner  
9 specified in par. (f), the committee shall deny the inmate's petition.

10 (d) When a court is notified by the department that it is referring to the court  
11 an inmate's petition for modification of the inmate's bifurcated sentence, the court  
12 shall schedule a hearing to determine whether the public interest would be served  
13 by a modification of the inmate's bifurcated sentence in the manner specified in par.  
14 (f). The inmate and the district attorney have the right to be present at the hearing,  
15 and any victim of the inmate's crime has the right to be present at the hearing and  
16 to provide a statement concerning the modification of the inmate's bifurcated  
17 sentence. The court shall order such notice of the hearing date as it considers  
18 adequate to be given to the department, the inmate, the attorney representing the  
19 inmate, if applicable, and the district attorney. Victim notification shall be provided  
20 as specified under par. (g).

21 (e) At a hearing scheduled under par. (d), the inmate has the burden of proving  
22 by the greater weight of the credible evidence that a modification of the bifurcated  
23 sentence in the manner specified in par. (f) would serve the public interest. If the  
24 inmate proves that a modification of the bifurcated sentence in the manner specified  
25 in par. (f) would serve the public interest, the court shall modify the inmate's

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1 bifurcated sentence in that manner. If the inmate does not prove that a modification  
2 of the bifurcated sentence in the manner specified in par. (f) would serve the public  
3 interest, the court shall deny the inmate's petition for modification of the bifurcated  
4 sentence.

5 (f) A court may modify an inmate's bifurcated sentence under this section only  
6 as follows:

7 1. The court shall reduce the term of confinement in prison portion of the  
8 inmate's bifurcated sentence in a manner that provides for the release of the inmate  
9 to extended supervision within 30 days after the date on which the court issues its  
10 order modifying the bifurcated sentence.

11 2. The court shall lengthen the term of extended supervision imposed so that  
12 the total length of the bifurcated sentence originally imposed does not change.

13 (g) 1. In this paragraph, "victim" has the meaning given in s. 950.02 (4).

14 2. When a court schedules a hearing under par. (d), the clerk of the circuit court  
15 shall send a notice of hearing to the victim of the crime committed by the inmate, if  
16 the victim has submitted a card under subd. 3. requesting notification. The notice  
17 shall inform the victim that he or she may appear at the hearing scheduled under  
18 par. (d) and shall inform the victim of the manner in which he or she may provide a  
19 statement concerning the modification of the inmate's bifurcated sentence in the  
20 manner provided in par. (f). The clerk of the circuit court shall make a reasonable  
21 attempt to send the notice of hearing to the last-known address of the inmate's  
22 victim, postmarked at least 10 days before the date of the hearing.

23 3. The director of state courts shall design and prepare cards for a victim to send  
24 to the clerk of the circuit court for the county in which the inmate was convicted and  
25 sentenced. The cards shall have space for a victim to provide his or her name and

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1 address, the name of the applicable inmate, and any other information that the  
2 director of state courts determines is necessary. The director of state courts shall  
3 provide the cards, without charge, to clerks of circuit court. Clerks of circuit court  
4 shall provide the cards, without charge, to victims. Victims may send completed  
5 cards to the clerk of the circuit court for the county in which the inmate was convicted  
6 and sentenced. All court records or portions of records that relate to mailing  
7 addresses of victims are not subject to inspection or copying under s. 19.35 (1).

8 (h) An inmate may appeal a court's decision to deny the inmate's petition for  
9 modification of his or her bifurcated sentence. The state may appeal a court's  
10 decision to grant an inmate's petition for a modification of the inmate's bifurcated  
11 sentence. In an appeal under this paragraph, the appellate court may reverse a  
12 decision granting or denying a petition for modification of a bifurcated sentence only  
13 if it determines that the sentencing court erroneously exercised its discretion in  
14 granting or denying the petition.

15 (i) If the program review committee denies an inmate's petition under par. (cm),  
16 the inmate may not file another petition within one year after the date of the program  
17 review committee's denial. If the program review committee approves an inmate's  
18 petition for referral to the sentencing court under par. (cm) but the sentencing court  
19 denies the petition, the inmate may not file another petition under par. (cm) within  
20 one year after the date of the court's decision.

21 (j) An inmate eligible to seek modification of his or her bifurcated sentence  
22 under this subsection has a right to be represented by counsel in proceedings under  
23 this subsection. An inmate, or the department on the inmate's behalf, may apply to  
24 the state public defender for determination of indigency and appointment of counsel  
25 under s. 977.05 (4) (jm) before or after the filing of a petition with the program review

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1 committee under par. (c). If an inmate whose petition has been referred to the court  
2 under par. (cm) is without counsel, the court shall refer the matter to the state public  
3 defender for determination of indigency and appointment of counsel under s. 977.05  
4 (4) (jm).

5 **SECTION 46.** 302.113 (9h) of the statutes is repealed.

6 **SECTION 47.** 302.1135 of the statutes is repealed.

7 **SECTION 48.** 302.114 (9) (am) of the statutes is amended to read:

8 302.114 (9) (am) If a person released to extended supervision under this section  
9 ~~or under s. 302.1135~~ violates a condition of extended supervision, the reviewing  
10 authority may revoke the extended supervision of the person. If the extended  
11 supervision of the person is revoked, the person shall be returned to the circuit court  
12 for the county in which the person was convicted of the offense for which he or she  
13 was on extended supervision, and the court shall order the person to be returned to  
14 prison for a specified period of time before he or she is eligible for being released again  
15 to extended supervision. The period of time specified under this paragraph may not  
16 be less than 5 years and may be extended in accordance with sub. (3).

17 **SECTION 49.** 302.114 (9) (c) of the statutes is amended to read:

18 302.114 (9) (c) A person who is subsequently released to extended supervision  
19 under par. (bm) is subject to all conditions and rules under sub. (8) until the  
20 expiration of the sentence ~~or until the department discharges the person under s.~~  
21 ~~973.01 (4m), whichever is appropriate.~~

22 **SECTION 50.** 304.01 (title) of the statutes is amended to read:

23 **304.01** (title) ~~Earned release review~~ **Parole commission and**  
24 **commission chairperson; general duties.**

25 **SECTION 51.** 304.01 (1) of the statutes is amended to read:

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1           304.01 (1) The chairperson of the ~~earned release review~~ parole commission  
2 shall administer and supervise the commission and its activities and shall be the  
3 final ~~parole-granting~~ authority ~~for granting parole or release to extended~~  
4 ~~supervision~~, except as provided in s. 304.02.

5           **SECTION 52.** 304.01 (2) (intro.) of the statutes is amended to read:

6           304.01 (2) (intro.) The ~~earned release review~~ parole commission shall conduct  
7 regularly scheduled interviews to consider the parole ~~or release to extended~~  
8 ~~supervision~~ of eligible inmates of the adult correctional institutions under the  
9 control of the department of corrections, eligible inmates transferred under ch. 51  
10 and under the control of the department of health services and eligible inmates in  
11 any county house of correction. The department of corrections shall provide all of the  
12 following to the ~~earned release review~~ parole commission:

13           **SECTION 53.** 304.01 (2) (b) of the statutes is amended to read:

14           304.01 (2) (b) Scheduling assistance for parole interviews ~~for prisoners who~~  
15 ~~have applied for parole or release to extended supervision~~ at the correctional  
16 institutions.

17           **SECTION 54.** 304.01 (2) (c) of the statutes is amended to read:

18           304.01 (2) (c) Clerical support related to the parole interviews ~~for prisoners who~~  
19 ~~have applied for parole or release to extended supervision~~.

20           **SECTION 55.** 304.01 (2) (d) of the statutes is amended to read:

21           304.01 (2) (d) Appropriate physical space at the correctional institutions to  
22 conduct the parole interviews ~~for prisoners who have applied for parole or release to~~  
23 ~~extended supervision~~.

24           **SECTION 56.** 304.06 (title) of the statutes is amended to read:

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1           **304.06** (title) ~~Release to parole or extended supervision~~ Paroles from  
2 state prisons and house of correction.

3           **SECTION 57.** 304.06 (1) (b) of the statutes is amended to read:

4           304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s.  
5 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the ~~earned release review parole~~  
6 commission may parole an inmate of the Wisconsin state prisons or any felon or any  
7 person serving at least one year or more in a county house of correction or a county  
8 reforestation camp organized under s. 303.07, when he or she has served 25% of the  
9 sentence imposed for the offense, or 6 months, whichever is greater. Except as  
10 provided in s. 939.62 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the ~~earned release~~  
11 ~~review parole~~ commission may parole an inmate serving a life term when he or she  
12 has served 20 years, as modified by the formula under s. 302.11 (1) and subject to  
13 extension under s. 302.11 (1q) and (2), if applicable. The person serving the life term  
14 shall be given credit for time served prior to sentencing under s. 973.155, including  
15 good time under s. 973.155 (4). The secretary may grant special action parole  
16 releases under s. 304.02. The department or the ~~earned release review parole~~  
17 commission shall not provide any convicted offender or other person sentenced to the  
18 department's custody any parole eligibility or evaluation ~~for parole or release to~~  
19 ~~extended supervision~~ until the person has been confined at least 60 days following  
20 sentencing.

21           **SECTION 58.** 304.06 (1) (bg) of the statutes is repealed.

22           **SECTION 59.** 304.06 (1) (bk) of the statutes is repealed.

23           **SECTION 60.** 304.06 (1) (bn) of the statutes is repealed.

24           **SECTION 61.** 304.06 (1) (br) of the statutes is repealed.

25           **SECTION 62.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

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1           304.06 (1) (c) (intro.) If an inmate applies for parole ~~or release to extended~~  
2 ~~supervision~~ under this subsection, the ~~earned release review~~ parole commission  
3 shall make a reasonable attempt to notify the following, if they can be found, in  
4 accordance with par. (d):

5           **SECTION 63.** 304.06 (1) (d) 1. of the statutes is amended to read:

6           304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons  
7 under par. (c) 1. to 3. of the manner in which they may provide written statements  
8 under this subsection, shall inform persons under par. (c) 3. of the manner in which  
9 they may attend interviews or hearings and make statements under par. (eg) and  
10 shall inform persons under par. (c) 3. who are victims, or family members of victims,  
11 of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2), or (3), 948.02 (1) or  
12 (2), 948.025, 948.06, or 948.07 of the manner in which they may have direct input in  
13 the parole decision-making process under par. (em) ~~for parole or release to extended~~  
14 ~~supervision~~. The ~~earned release review~~ parole commission shall provide notice  
15 under this paragraph for an inmate's first application for parole ~~or release to~~  
16 ~~extended supervision~~ and, upon request, for subsequent applications for parole ~~or~~  
17 ~~release to extended supervision~~.

18           **SECTION 64.** 304.06 (1) (d) 2. of the statutes is amended to read:

19           304.06 (1) (d) 2. The notice shall be by 1st class mail to an office's or a person's  
20 last-known address sent at least 3 weeks before the interview or hearing upon the  
21 application for parole ~~or release to extended supervision~~.

22           **SECTION 65.** 304.06 (1) (d) 3m. of the statutes is amended to read:

23           304.06 (1) (d) 3m. If applicable, the notice shall state the manner in which the  
24 person may have direct input in the decision-making process for parole ~~or release~~  
25 ~~to extended supervision~~.

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1           **SECTION 66.** 304.06 (1) (d) 4. of the statutes is amended to read:

2           304.06 (1) (d) 4. If the notice is for a first application for parole ~~or release to~~  
3 ~~extended supervision~~, the notice shall inform the offices and persons under par. (c)  
4 1. to 3. that notification of subsequent applications for parole ~~or release to extended~~  
5 ~~supervision~~ will be provided only upon request.

6           **SECTION 67.** 304.06 (1) (e) of the statutes is amended to read:

7           304.06 (1) (e) The ~~earned release review~~ parole commission shall permit any  
8 office or person under par. (c) 1. to 3. to provide written statements. The ~~earned~~  
9 ~~release review~~ parole commission shall give consideration to any written statements  
10 provided by any such office or person and received on or before the date specified in  
11 the notice. This paragraph does not limit the authority of the ~~earned release review~~  
12 parole commission to consider other statements or information that it receives in a  
13 timely fashion.

14           **SECTION 68.** 304.06 (1) (eg) of the statutes is amended to read:

15           304.06 (1) (eg) The ~~earned release review~~ parole commission shall permit any  
16 person under par. (c) 3. to attend any interview or hearing on the application for  
17 parole ~~or release to extended supervision~~ of an applicable inmate and to make a  
18 statement at that interview or hearing.

19           **SECTION 69.** 304.06 (1) (em) of the statutes is amended to read:

20           304.06 (1) (em) The ~~earned release review~~ parole commission shall promulgate  
21 rules that provide a procedure to allow any person who is a victim, or a family  
22 member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2),  
23 or (3), 948.02 (1) or (2), 948.025, 948.06, or 948.07 to have direct input in the  
24 decision-making process for parole ~~or release to extended supervision~~.

25           **SECTION 70.** 304.06 (1) (f) of the statutes is amended to read:

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1           304.06 (1) (f) The ~~earned release review~~ parole commission shall design and  
2 prepare cards for persons specified in par. (c) 3. to send to the commission. The cards  
3 shall have space for these persons to provide their names and addresses, the name  
4 of the applicable prisoner and any other information the ~~earned release review~~  
5 parole commission determines is necessary. The ~~earned release review~~ parole  
6 commission shall provide the cards, without charge, to district attorneys. District  
7 attorneys shall provide the cards, without charge, to persons specified in par. (c) 3.  
8 These persons may send completed cards to the ~~earned release review~~ parole  
9 commission. All commission records or portions of records that relate to mailing  
10 addresses of these persons are not subject to inspection or copying under s. 19.35 (1).  
11 Before any written statement of a person specified in par. (c) 3. is made a part of the  
12 documentary record considered in connection with a parole hearing ~~for parole, or~~  
13 ~~release to extended supervision~~ under this section, the ~~earned release review~~ parole  
14 commission shall obliterate from the statement all references to the mailing  
15 addresses of the person. A person specified in par. (c) 3. who attends an interview  
16 or hearing under par. (eg) may not be required to disclose at the interview or hearing  
17 his or her mailing addresses.

18           **SECTION 71.** 304.06 (1) (g) of the statutes is amended to read:

19           304.06 (1) (g) Before a person is released on parole ~~or released to extended~~  
20 ~~supervision~~ under this subsection, the ~~earned release review~~ parole commission  
21 shall so notify the municipal police department and the county sheriff for the area  
22 where the person will be residing. The notification requirement under this  
23 paragraph does not apply if a municipal department or county sheriff submits to the  
24 ~~earned release review~~ parole commission a written statement waiving the right to  
25 be notified. If applicable, the department shall also comply with s. 304.063.

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1           **SECTION 72.** 304.06 (1m) (intro.) of the statutes is amended to read:

2           304.06 (1m) (intro.) The ~~earned release review~~ parole commission may waive  
3 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of  
4 the following circumstances:

5           **SECTION 73.** 304.06 (1q) (b) of the statutes is amended to read:

6           304.06 (1q) (b) The ~~earned release review~~ parole commission or the department  
7 may require as a condition of parole that a serious child sex offender undergo  
8 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
9 antiandrogen. This paragraph does not prohibit the department from requiring  
10 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
11 antiandrogen as a condition of probation.

12           **SECTION 74.** 304.06 (1q) (c) of the statutes is amended to read:

13           304.06 (1q) (c) In deciding whether to grant a serious child sex offender release  
14 on parole under this subsection, the ~~earned release review~~ parole commission may  
15 not consider, as a factor in making its decision, that the offender is a proper subject  
16 for pharmacological treatment using an antiandrogen or the chemical equivalent of  
17 an antiandrogen or that the offender is willing to participate in pharmacological  
18 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

19           **SECTION 75.** 304.06 (1x) of the statutes is amended to read:

20           304.06 (1x) The ~~earned release review~~ parole commission may require as a  
21 condition of parole that the person is placed in the intensive sanctions program under  
22 s. 301.048. In that case, the person is in the legal custody of the department under  
23 that section and is subject to revocation of parole under sub. (3).

24           **SECTION 76.** 304.06 (2m) (d) of the statutes is amended to read:

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1           304.06 (2m) (d) The ~~earned release review~~ parole commission or the  
2 department shall determine a prisoner's county of residence for the purposes of this  
3 subsection by doing all of the following:

4           1. The ~~earned release review~~ parole commission or the department shall  
5 consider residence as the voluntary concurrence of physical presence with intent to  
6 remain in a place of fixed habitation and shall consider physical presence as prima  
7 facie evidence of intent to remain.

8           2. The ~~earned release review~~ parole commission or the department shall apply  
9 the criteria for consideration of residence and physical presence under subd. 1. to the  
10 facts that existed on the date that the prisoner committed the serious sex offense that  
11 resulted in the sentence the prisoner is serving.

12           **SECTION 77.** 304.06 (3) of the statutes is amended to read:

13           304.06 (3) Every paroled prisoner ~~paroled or released to extended supervision~~  
14 remains in the legal custody of the department unless otherwise provided by the  
15 department. If the department alleges that any condition or rule of parole ~~or~~  
16 ~~extended supervision~~ has been violated by the prisoner, the department may take  
17 physical custody of the prisoner for the investigation of the alleged violation. If the  
18 department is satisfied that any condition or rule of parole ~~or extended supervision~~  
19 has been violated it shall afford the prisoner such administrative hearings as are  
20 required by law. Unless waived by the parolee ~~or person on extended supervision~~,  
21 the final administrative hearing shall be held before a hearing examiner from the  
22 division of hearings and appeals in the department of administration who is licensed  
23 to practice law in this state. The hearing examiner shall enter an order revoking or  
24 not revoking parole ~~or extended supervision~~. Upon request by either party, the  
25 administrator of the division of hearings and appeals shall review the order. The

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1 hearing examiner may order that a deposition be taken by audiovisual means and  
2 allow the use of a recorded deposition under s. 967.04 (7) to (10). If the parolee or  
3 ~~person on extended supervision~~ waives the final administrative hearing, the  
4 secretary of corrections shall enter an order revoking or not revoking parole or  
5 ~~extended supervision~~. If the examiner, the administrator upon review, or the  
6 secretary in the case of a waiver finds that the prisoner has violated the rules or  
7 conditions of parole or ~~extended supervision~~, the examiner, the administrator upon  
8 review, or the secretary in the case of a waiver, may order the prisoner returned to  
9 prison to continue serving his or her sentence, or to continue on parole or ~~extended~~  
10 ~~supervision~~. If the prisoner claims or appears to be indigent, the department shall  
11 refer the prisoner to the authority for indigency determinations specified under s.  
12 977.07 (1).

13 **SECTION 78.** 304.06 (3e) of the statutes is amended to read:

14 304.06 (3e) The division of hearings and appeals in the department of  
15 administration shall make either an electronic or stenographic record of all  
16 testimony at each parole or ~~extended supervision~~ revocation hearing. The division  
17 shall prepare a written transcript of the testimony only at the request of a judge who  
18 has granted a petition for judicial review of the revocation decision. Each hearing  
19 notice shall include notice of the provisions of this subsection and a statement that  
20 any person who wants a written transcript may record the hearing at his or her own  
21 expense.

22 **SECTION 79.** 304.06 (3m) of the statutes is amended to read:

23 304.06 (3m) If the convicting court is informed by the department that a  
24 prisoner on parole or ~~extended supervision~~ has absconded and that the prisoner's  
25 whereabouts are unknown, the court may issue a capias for execution by the sheriff.

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1           **SECTION 80.** 304.071 (1) of the statutes is amended to read:

2           304.071 (1) The ~~earned release review parole~~ commission may at any time  
3 grant a parole ~~or release to extended supervision~~ to any prisoner in any penal  
4 institution of this state, or the department may at any time suspend the supervision  
5 of any person who is on probation, or parole, ~~or extended supervision~~ to the  
6 department, if the prisoner or person on probation, or parole, ~~or extended~~  
7 ~~supervision~~ is eligible for induction into the U.S. armed forces. The suspension of  
8 parole, ~~extended supervision~~, or probation shall be for the duration of his or her  
9 service in the armed forces; and the parole, ~~extended supervision~~, or probation shall  
10 again become effective upon his or her discharge from the armed forces in accordance  
11 with regulations prescribed by the department. If he or she receives an honorable  
12 discharge from the armed forces, the governor may discharge him or her and the  
13 discharge has the effect of a pardon. Upon the suspension of parole, ~~extended~~  
14 ~~supervision~~, or probation by the department, the department shall issue an order  
15 setting forth the conditions under which the parole, ~~extended supervision~~, or  
16 probation is suspended, including instructions as to where and when and to whom  
17 the person on parole ~~or extended supervision~~ shall report upon discharge from the  
18 armed forces.

19           **SECTION 81.** 801.50 (5) of the statutes is amended to read:

20           801.50 (5) Venue of an action for certiorari to review a probation, extended  
21 supervision, or parole revocation, a denial by ~~the earned release review commission~~  
22 a program review committee under s. ~~302.1135 (5)~~ 302.113 (9g) of a petition for  
23 modification of a bifurcated sentence, or a refusal of parole shall be the county in  
24 which the relator was last convicted of an offense for which the relator was on

**BILL**

1 probation, extended supervision, or parole or for which the relator is currently  
2 incarcerated.

3 **SECTION 82.** 809.30 (1) (c) of the statutes is amended to read:

4 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for  
5 postconviction relief in a criminal case, other than an appeal, motion, or petition  
6 under ss. 302.113 (7m), ~~302.1135~~ or (9g), 973.19, 973.195, 973.198, 974.06, or 974.07  
7 (2). In a ch. 980 case, the term means an appeal or a motion for postcommitment  
8 relief under s. 980.038 (4).

9 **SECTION 83.** 911.01 (4) (c) of the statutes is amended to read:

10 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or  
11 rendition; sentencing, granting or revoking probation, modification of a bifurcated  
12 sentence under s. ~~302.1135~~ 302.113 (9g), adjustment of a bifurcated sentence under  
13 s. 973.195 (1r), ~~release to extended supervision under s. 302.113 (2) (b) or 304.06 (1)~~  
14 ~~or discharge under s. 973.01 (4m) or 973.198~~; issuance of subpoenas or warrants  
15 under s. 968.375, arrest warrants, criminal summonses, and search warrants;  
16 hearings under s. 980.09 (2); proceedings under s. 971.14 (1r) (c); or proceedings with  
17 respect to pretrial release under ch. 969 except where habeas corpus is utilized with  
18 respect to release on bail or as otherwise provided in ch. 969; and proceedings under  
19 s. 165.76 (6) to compel provision of a biological specimen for deoxyribonucleic acid  
20 analysis.

21 **SECTION 84.** 950.04 (1v) (f) of the statutes is amended to read:

22 950.04 (1v) (f) To have the ~~earned release review~~ parole commission make a  
23 reasonable attempt to notify the victim of applications for parole ~~or release to~~  
24 ~~extended supervision~~, as provided under s. 304.06 (1).

25 **SECTION 85.** 950.04 (1v) (g) of the statutes is amended to read:

**BILL**

1           950.04 (1v) (g) To have reasonable attempts made to notify the victim of  
2 hearings or court proceedings, as provided under ss. 302.113 (9g) (g) 2., 302.114 (6),  
3 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).

4           **SECTION 86.** 950.04 (1v) (gm) of the statutes is amended to read:

5           950.04 (1v) (gm) To have reasonable attempts made to notify the victim of an  
6 ~~offender who submits a petition~~ petitions for sentence adjustment as provided under  
7 s. 973.195 (1r) (d), ~~an offender who applies for release to extended supervision under~~  
8 ~~s. 302.113 (2) (b), 302.1135, or 304.06 (1), or an offender who applies for a reduction~~  
9 ~~under s. 973.01 (4m) or 973.198.~~

10          **SECTION 87.** 950.04 (1v) (nt) of the statutes is amended to read:

11          950.04 (1v) (nt) To attend a hearing on a petition for modification of a  
12 bifurcated sentence and provide a statement concerning modification of the  
13 bifurcated sentence, as provided under s. ~~302.1135 (4)~~ 302.113 (9g) (d).

14          **SECTION 88.** 973.01 (3d) of the statutes is repealed.

15          **SECTION 89.** 973.01 (4) of the statutes is amended to read:

16          973.01 (4) EXTENSION NO GOOD TIME; EXTENSION OR REDUCTION OF TERM OF  
17 IMPRISONMENT. A person sentenced to a bifurcated sentence under sub. (1) shall serve  
18 the term of confinement in prison portion of the sentence without reduction for good  
19 behavior. The term of confinement in prison portion is subject to extension under s.  
20 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a.,  
21 302.113 (9g), or 973.195 (1r), or adjustment under s. 302.113 (2) (b), 302.1135 (6) (a),  
22 ~~or 304.06 (1) or 973.198.~~

23          **SECTION 90.** 973.01 (4m) of the statutes is repealed.

24          **SECTION 91.** 973.01 (7) of the statutes is amended to read:

**BILL**

1           973.01 (7) ~~DISCHARGE~~ NO DISCHARGE. The department of corrections shall may  
2     not discharge a person who is serving a bifurcated sentence from custody, control and  
3     supervision ~~when~~ until the person has served the entire bifurcated sentence, ~~as~~  
4     ~~modified under sub. (4m) or s. 302.113 (2) (b) or (9h), 302.1135, or 304.06 (1), if~~  
5     applicable.

6           **SECTION 92.** 973.031 of the statutes is repealed.

7           **SECTION 93.** 973.09 (3) (d) of the statutes is repealed.

8           **SECTION 94.** 973.195 (1r) (a) of the statutes is amended to read:

9           973.195 (1r) (a) ~~An~~ Except as provided in s. 973.198, an inmate who is serving  
10     a sentence imposed under s. 973.01 ~~before October 1, 2009~~, for a crime other than a  
11     Class B felony may petition the sentencing court to adjust the sentence if the inmate  
12     has served at least the applicable percentage of the term of confinement in prison  
13     portion of the sentence. If an inmate is subject to more than one sentence imposed  
14     under this section, the sentences shall be treated individually for purposes of  
15     sentence adjustment under this subsection.

16          **SECTION 95.** 973.195 (1r) (j) of the statutes is repealed.

17          **SECTION 96.** 973.198 of the statutes is created to read:

18          **973.198 Sentence adjustment; positive adjustment time.** (1) Subject to  
19     sub. (2), an inmate who is serving a sentence imposed under s. 973.01 on or after  
20     October 1, 2009, but before the effective date of this subsection .... [LRB inserts date],  
21     and who has earned positive adjustment time under s. 302.113, 2009 stats., or under  
22     s. 304.06, 2009 stats., may petition the sentencing court to adjust the sentence under  
23     this section.

24           (2) When the department of corrections determines that an inmate has served  
25     the confinement portion of his or her sentence less positive adjustment time earned

**BILL**

1 between October 1, 2009, and the effective date of this subsection .... [LRB inserts  
2 date], the inmate may petition the sentencing court to adjust his or her sentence  
3 based on the number of days of positive adjustment time the inmate claims that he  
4 or she has earned.

5 (3) Within 60 days of receipt of a petition filed under sub. (2), the sentencing  
6 court shall either deny the petition or hold a hearing and issue an order relating to  
7 the inmate's sentence adjustment and release to extended supervision.

8 (4) At the hearing under sub. (3), the court may consider the inmate's conduct  
9 in prison, his or her level of risk of reoffending, based on a verified, objective  
10 instrument, and the nature of the offense committed by the inmate.

11 (5) If the court determines that the inmate has earned positive adjustment  
12 time, the court may reduce the term of confinement in prison by the amount of time  
13 remaining in the term of confinement in prison portion of the sentence, less up to 30  
14 days, and shall lengthen the term of extended supervision so that the total length of  
15 the bifurcated sentence originally imposed does not change.

16 (6) An inmate who submits a petition under this section may not apply for  
17 adjustment of the same sentence under s. 973.195.

18 **SECTION 97.** 974.07 (4) (b) of the statutes is amended to read:

19 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing  
20 addresses from completed information cards submitted by victims under ss. 51.37  
21 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),  
22 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,  
23 the ~~earned release review~~ parole commission, and the department of health services  
24 shall, upon request, assist clerks of court in obtaining information regarding the

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1 mailing address of victims for the purpose of sending copies of motions and notices  
2 of hearings under par. (a).

3 **SECTION 98.** 976.03 (23) (c) of the statutes is amended to read:

4 976.03 (23) (c) The application shall be verified by affidavit, shall be executed  
5 in duplicate and shall be accompanied by 2 certified copies of the indictment  
6 returned, or information and affidavit filed, or of the complaint made to a judge,  
7 stating the offense with which the accused is charged, or of the judgment of  
8 conviction or of the sentence. The prosecuting officer, ~~earned release review parole~~  
9 commission, warden or sheriff may also attach such further affidavits and other  
10 documents in duplicate as he, she or it deems proper to be submitted with the  
11 application. One copy of the application, with the action of the governor indicated  
12 by endorsement thereon, and one of the certified copies of the indictment, complaint,  
13 information and affidavits, or of the judgment of conviction or of the sentence shall  
14 be filed in the office of the governor to remain of record in that office. The other copies  
15 of all papers shall be forwarded with the governor's requisition.

16 **SECTION 99.** 977.05 (4) (jm) of the statutes is amended to read:

17 977.05 (4) (jm) At the request of an inmate determined by the state public  
18 defender to be indigent or upon referral of ~~the department of corrections~~ a court  
19 under s. ~~302.1135 (10)~~ 302.113 (9g) (j), represent the inmate in proceedings for  
20 modification of a bifurcated sentence under s. ~~302.1135 before the earned release~~  
21 ~~review commission~~ 302.113 (9g) before a program review committee and the  
22 sentencing court, if the state public defender determines the case should be pursued.

23 **SECTION 100. Initial applicability.**

24 (1) This act first applies to a person sentenced on December 31, 1999, except  
25 that the treatment of ss. 302.113 (1) and (2) (a) and (b) and 304.06 (1) (bg) does not

**BILL**

1 apply to positive adjustment time earned on or after October 1, 2009, but before the  
2 effective date of this subsection by a person who was sentenced on or after October  
3 1, 2009, but before the effective date of this subsection.

4 (END)

**Barman, Mike**

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**From:** Kelly, Scott  
**Sent:** Monday, April 04, 2011 8:27 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-1804/1 Topic: Earned release

Please Jacket LRB 11-1804/1 for the SENATE.



## 2011 SENATE BILL 57

04-08-2011  
Before  
Changes

April 8, 2011 - Introduced by Senators WANGGAARD, LEIBHAM, MOULTON, ZIPPERER and GALLOWAY, cosponsored by Representatives SUDER, KRUG, JACQUE, PETERSEN, SPANBAUER, ZIEGELBAUER, STEINEKE, SEVERSON, T. LARSON, KESTELL, MURSAU, THIESFELDT, LEMAHIEU, STRACHOTA, KLEEFISCH, MURTHA, ENDSLEY, MARKLEIN, RIVARD, HONADEL, BIES, KAUFERT, STONE, BROOKS, PETRYK, RIPP and KNODL. Referred to Committee on Public Health, Human Services, and Revenue.

1 AN ACT *to repeal* 302.042, 302.045 (3m) (d), 302.05 (3) (c) 3., 302.113 (2) (b),  
2 302.113 (2) (c), 302.113 (3) (e), 302.113 (9h), 302.1135, 304.06 (1) (bg), 304.06 (1)  
3 (bk), 304.06 (1) (bn), 304.06 (1) (br), 973.01 (3d), 973.01 (4m), 973.031, 973.09  
4 (3) (d) and 973.195 (1r) (j); *to renumber and amend* 302.05 (1) and 302.113  
5 (2) (a); *to amend* 15.01 (2), 15.06 (6), 15.145 (1), 17.07 (3m), 20.410 (2) (title),  
6 20.410 (2) (a), 20.923 (4) (b) 6., 230.08 (2) (pd), 301.03 (3), 301.048 (2) (am) 3.,  
7 301.21 (1m) (c), 301.21 (2m) (c), 302.045 (1), 302.045 (3), 302.05 (title), 302.05  
8 (2), 302.05 (3) (b), 302.05 (3) (c) 1., 302.05 (3) (c) 2. (intro.), 302.05 (3) (d), 302.11  
9 (1g) (b) (intro.), 302.11 (1g) (b) 2., 302.11 (1g) (c), 302.11 (1g) (d), 302.11 (1m),  
10 302.11 (7) (c), 302.113 (1), 302.113 (3) (d), 302.113 (7), 302.113 (9) (am), 302.113  
11 (9) (c), 302.114 (9) (am), 302.114 (9) (c), 304.01 (title), 304.01 (1), 304.01 (2)  
12 (intro.), 304.01 (2) (b), 304.01 (2) (c), 304.01 (2) (d), 304.06 (title), 304.06 (1) (b),  
13 304.06 (1) (c) (intro.), 304.06 (1) (d) 1., 304.06 (1) (d) 2., 304.06 (1) (d) 3m., 304.06  
14 (1) (d) 4., 304.06 (1) (e), 304.06 (1) (eg), 304.06 (1) (em), 304.06 (1) (f), 304.06 (1)

SENATE

INTRODUCTION AND REFERRAL OF PROPOSALS

(April 08, 2011)

**SENATE BILL 57 (LRB -1804)**

Relating to: corrections and sentencing.

By Senators Wanggaard, Leibham, Moulton, Zipperer and Galloway; cosponsored by Representatives Suder, Krug, Jacque, Petersen, Spanbauer, Ziegelbauer, Steineke, Severson, T. Larson, Kestell, Mursau, Thiesfeldt, LeMahieu, Strachota, Kleefisch, Murtha, Endsley, Marklein, Rivard, Honadel, Bies, Kaufert, Stone, Brooks, Petryk, Ripp and Knodl.

Referred to Committee on **LABOR, PUBLIC SAFETY, AND URBAN AFFAIRS.**

changed

04-08-2011  
Per Jeff  
SCC office

Corrected copy

not needed  
mistake caught right away



04-08-2011  
After  
changes

## 2011 SENATE BILL 57

April 8, 2011 - Introduced by Senators WANGGAARD, LEIBHAM, MOULTON, ZIPPERER and GALLOWAY, cosponsored by Representatives SUDER, KRUG, JACQUE, PETERSEN, SPANBAUER, ZIEGELBAUER, STEINEKE, SEVERSON, T. LARSON, KESTELL, MURSAU, THIESFELDT, LEMAHIEU, STRACHOTA, KLEEFISCH, MURTHA, ENDSLEY, MARKLEIN, RIVARD, HONADEL, BIES, KAUFERT, STONE, BROOKS, PETRYK, RIPP and KNODL. Referred to Committee on Labor, Public Safety, and Urban Affairs.

1     **AN ACT to repeal** 302.042, 302.045 (3m) (d), 302.05 (3) (c) 3., 302.113 (2) (b),  
2             302.113 (2) (c), 302.113 (3) (e), 302.113 (9h), 302.1135, 304.06 (1) (bg), 304.06 (1)  
3             (bk), 304.06 (1) (bn), 304.06 (1) (br), 973.01 (3d), 973.01 (4m), 973.031, 973.09  
4             (3) (d) and 973.195 (1r) (j); **to renumber and amend** 302.05 (1) and 302.113  
5             (2) (a); **to amend** 15.01 (2), 15.06 (6), 15.145 (1), 17.07 (3m), 20.410 (2) (title),  
6             20.410 (2) (a), 20.923 (4) (b) 6., 230.08 (2) (pd), 301.03 (3), 301.048 (2) (am) 3.,  
7             301.21 (1m) (c), 301.21 (2m) (c), 302.045 (1), 302.045 (3), 302.05 (title), 302.05  
8             (2), 302.05 (3) (b), 302.05 (3) (c) 1., 302.05 (3) (c) 2. (intro.), 302.05 (3) (d), 302.11  
9             (1g) (b) (intro.), 302.11 (1g) (b) 2., 302.11 (1g) (c), 302.11 (1g) (d), 302.11 (1m),  
10            302.11 (7) (c), 302.113 (1), 302.113 (3) (d), 302.113 (7), 302.113 (9) (am), 302.113  
11            (9) (c), 302.114 (9) (am), 302.114 (9) (c), 304.01 (title), 304.01 (1), 304.01 (2)  
12            (intro.), 304.01 (2) (b), 304.01 (2) (c), 304.01 (2) (d), 304.06 (title), 304.06 (1) (b),  
13            304.06 (1) (c) (intro.), 304.06 (1) (d) 1., 304.06 (1) (d) 2., 304.06 (1) (d) 3m., 304.06  
14            (1) (d) 4., 304.06 (1) (e), 304.06 (1) (eg), 304.06 (1) (em), 304.06 (1) (f), 304.06 (1)