

2011 DRAFTING REQUEST

Senate Amendment (SA-SB57)

Received: **05/10/2011**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB:

For: **Lena Taylor (608) 266-5810**

By/Representing: **Eric Peterson**

May Contact:

Drafter: **phurley**

Subject: **Correctional System - misc**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Taylor@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Corrections

Instructions:

add to SB 57: 2009 SB 315, 316, and 318

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>
/1	phurley 05/10/2011	kfollett 05/10/2011	phenry 05/11/2011	_____	sbasford 05/11/2011	sbasford 05/11/2011	

FE Sent For:

<END>

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/1	phurley		S/11 ph	S/11 ph / pf			

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<END>



Wed a.m.

**SENATE AMENDMENT,
TO 2011 SENATE BILL 57**

the material beginning with "prison" and ending with "supervision" ~~word~~ on line 10

1 At the locations indicated, amend the bill as follows:

2 1. Page 7, line 6: delete lines 6 to 17 and substitute: **Insert 7.17**

3 2. Page 12, line 9: delete lines 9 to 12 and substitute: **Insert 12.12**

4 3. Page 13, line 17: after that line insert: **Insert 13.17**

5 4. Page 14, line 8: delete "any specified period of time that does not exceed" and
6 substitute "any specified period of time that does not exceed 6 months or".

7 5. Page 14, line 9: after "sentence" insert ", whichever is less".

8 6. Page 14, line 15: after that line insert: **Insert 14.15**

9 7. Page 27, line 9: delete that line and substitute: **X**

Change component

10 "prison to continue serving for the remainder of his or her sentence or for 6
11 months, whichever is less ^{no score} or may order him or her to continue on parole ^{strike} ~~or extended supervision~~ If the

1 person is ordered returned to prison, the period of time may be extended in
2 accordance with s. 302.11 (2m). ✓

plain *and substitute* *supervision*

change
complaint

3 ~~8. Page 27, line 10: delete "supervision"~~

4 **9.** Page 30, line 13: after that line insert:

Insert 30.13

5 **10.** Page 31, line 6: delete that line and substitute:

Insert 31.6

6 **11.** Page 33, line 24: delete "This" and substitute "Except as provided in
7 subsections (2) and (3), this". ✓ ✓

8 **12.** Page 34, line 3: after that line insert:

(3)

9 "(2) The treatment of sections 302.11 (2m), (7) (am), (b), and (c), 302.113 (3m),
10 302.113 (9) (am) and (b), and 304.06 of the statutes first applies to a revocation that
11 occurs on the effective date of this subsection. ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓

12 (3) The treatment of section 973.01 (2) (d) (intro) of the statutes first applies
13 to a person sentenced for a crime committed on the effective date of this subsection." ✓

CPs:
make
sure
these
are
in app

(END)

SENATE BILL 316

2. Refusing or neglecting to perform required or assigned duties.

3. Refusing or neglecting to participate in required programming or treatment.

SECTION 302.11 (2m) of the statutes is created to read:

302.11 (2m) The warden or superintendent shall keep a record of the conduct of each person who is returned to prison after revocation of parole, specifying each infraction of the rules. If a person violates any regulation of the prison, refuses or neglects to perform required or assigned duties, or refuses or neglects to participate in required programming or treatment, the department may extend the release date by not more than 90 days.

(b) No extension under par. (a) may require a person to serve more days in prison than provided in his or her sentence.

NOTE: This SECTION gives the warden or superintendent the authority to extend the release date of a person returned to prison after revocation of parole if the person violates prison regulations, refuses or neglects to perform the duties required or assigned by DOC, or refuses or neglects to participate in the programming or treatment required by DOC. The extension of the release date may not exceed 90 days and may not exceed the total days in prison provided in the sentence.

SECTION 302.11 (7) (am) of the statutes is amended to read:

302.11 (7) (am) The reviewing authority may return a parolee released under sub. (1) or (1g) (b) or s. 304.02 or 304.06 (1) to prison for a period up to the remainder of the sentence or for 6 months, whichever is less, for a violation of the conditions of parole. The remainder of the sentence is the entire sentence, less time served in custody prior to parole. The period of time may be extended in accordance with sub. (2m). The revocation order shall provide the parolee with credit in accordance with ss. 304.072 and 973.155.

NOTE: This SECTION provides that a person whose parole is revoked and who is returned to prison must serve 6 months or the remainder of the sentence, whichever is less. The period of time spent in prison may also be extended according to the procedure explained in SECTION 1 of this bill.

SECTION 302.11 (7) (b) of the statutes is amended to read:

34p.

Insert
12/12

34h.

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1

SENATE BILL 316

Insert
12/12/09

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302.11 (7) (b) A parolee returned to prison for violation of the conditions of parole shall be incarcerated for the entire period of time determined by the reviewing authority unless paroled earlier under par. (c). The parolee is not subject to mandatory release under sub. (1) or presumptive mandatory release under sub. (1g). The period of time determined under par. (am) may be extended in accordance with subs. (1q) and (2) sub. (2m).

NOTE: This SECTION changes the cross-reference relating to the authority of a warden or superintendent to extend the time spent in prison following a parole revocation as specified in SECTION 1 of this draft.

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~~SECTION 302.11 (7) (c)~~ of the statutes, as affected by 2009 Wisconsin Act 28,

is amended to read:

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

Insert
1/3/17

NOTE: This SECTION removes the provision that allows the earned release review commission to release a person spending time in prison after parole revocation after the person has served 25 percent of the sentence or 6 months, whichever is greater. It retains DOC authority to use a special action release program to place a person on parole due to prison overcrowding.

41m

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// SECTION 302.113 (3m) of the statutes is created to read:

302.113 (3m) (a) The warden or superintendent shall keep a record of the conduct of each inmate who is returned to prison after revocation of extended supervision, specifying each infraction of the rules. If a person violates any regulation of the prison, refuses or neglects to perform required or assigned duties, or refuses or neglects to participate in required programming or treatment, the department may extend the period imposed under sub. (9) by not more than 90 days.

SENATE BILL 316

Insert
13/17 cont

1 (b) No extension under par. (a) may require a person to serve more days in
2 prison than the total length of the bifurcated sentence imposed on the person under
3 s. 973.01.

NOTE: This SECTION gives the warden or superintendent the authority to extend the reconfinement period of a person returned to prison after revocation of extended supervision if that person violates prison regulations, refuses or neglects to perform the duties required or assigned by the DOC, or refuses or neglects to participate in the programming or treatment required by the department. The extension of reconfinement is 90 days, unless the days served in prison would exceed the total length of the bifurcated sentence.

4 SECTION 6. 302.113 (9) (am) of the statutes, as affected by 2009 Wisconsin Act
5 28, is amended to read:

6 302.113 (9) (am) If a person released to extended supervision under this section
7 or under s. 302.1135 violates a condition of extended supervision, the reviewing
8 authority may revoke the extended supervision of the person. If the extended
9 supervision of the person is revoked, the reviewing authority shall order the person
10 to be returned to prison for ~~any specified period of time that does not exceed 6 months~~
11 or the time remaining on the bifurcated sentence, whichever is less. The time
12 remaining on the bifurcated sentence is the total length of the bifurcated sentence,
13 less time served by the person in confinement under the sentence before release to
14 extended supervision under sub. (2) and less all time served in confinement for
15 previous revocations of extended supervision under the sentence. The order
16 returning a person to prison under this paragraph shall provide the person whose
17 extended supervision was revoked with credit in accordance with ss. 304.072 and
18 973.155.

NOTE: This SECTION provides that the revocation period will be equal to the time remaining on the bifurcated sentence or 6 months, whichever is less.

Insert
14.15

19 // SECTION 302.113 (9) (b) of the statutes, as affected by 2009 Wisconsin Act 28,
20 is amended to read: 43m.

43m.



SENATE BILL 316

Insert
14.15

1 302.113 (9) (b) A person who is returned to prison after revocation of extended
 2 supervision shall be incarcerated for the entire period of time specified by the order
 3 under par. (am). The period of time specified under par. (am) may be extended in
 4 accordance with sub. (3) (3m). If a person is returned to prison under par. (am) for
 5 a period of time that is less than the time remaining on the bifurcated sentence, the
 6 person shall be released to extended supervision after he or she has served the period
 7 of time specified by the order under par. (am) and any periods of extension imposed
 8 in accordance with sub. (3) (3m). 1),

9 **SECTION 8.** 304.06 (3) of the statutes, as affected by 2009 Wisconsin Act 28, is
 10 amended to read:

11 304.06 (3) Every prisoner paroled or released to extended supervision remains
 12 in the legal custody of the department unless otherwise provided by the department.
 13 If the department alleges that any condition or rule of parole or extended supervision
 14 has been violated by the prisoner, the department may take physical custody of the
 15 prisoner for the investigation of the alleged violation. If the department is satisfied
 16 that any condition or rule of parole or extended supervision has been violated it shall
 17 afford the prisoner such administrative hearings as are required by law. Unless
 18 waived by the parolee or person on extended supervision, the final administrative
 19 hearing shall be held before a hearing examiner from the division of hearings and
 20 appeals in the department of administration who is licensed to practice law in this
 21 state. The hearing examiner shall enter an order revoking or not revoking parole or
 22 extended supervision. Upon request by either party, the administrator of the
 23 division of hearings and appeals shall review the order. The hearing examiner may
 24 order that a deposition be taken by audiovisual means and allow the use of a recorded
 25 deposition under s. 967.04 (7) to (10). If the parolee or person on extended

SENATE BILL 318

record while in prison, he or she may be released from incarceration to extended supervision in the community after he or she has served at least 75 percent of the incarceration portion of his or her sentence.

Under this bill, DOC may not modify an inmate's program and must release an inmate when the inmate has served 75 percent of the incarceration portion of his or her sentence if the inmate successfully completes his or her program and treatment plan. The bill also eliminates the list of offenses that render a person ineligible for a risk reduction sentence.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Justice Reinvestment Initiative Oversight.

The bill permits a court to order a risk reduction sentence for a person who has been convicted of a felony if the court determines that a risk reduction sentence is appropriate and if the person agrees to all of the following:

1. To cooperate in an assessment of the person's criminogenic needs and risk of re-offending.
2. To participate in any programming or treatment ordered by the Department of Corrections (DOC) to address issues raised in any risk assessment conducted by DOC.

The bill requires DOC to conduct a criminogenic needs and risk assessment of any person under a risk reduction sentence and requires DOC to provide programming and treatment to address the risks and needs identified in the risk assessment.

If DOC determines that a person has successfully completed a risk reduction sentence, DOC must release the person to extended supervision after the person has served 75% of the person's term of confinement and must notify the court that the person has, to that point, successfully completed the risk reduction sentence.

1 // SECTION ~~302.042 (3)~~ of the statutes, as created by 2009 Wisconsin Act 28, is
2 repealed.

3 SECTION ~~302.042 (4)~~ of the statutes, as created by 2009 Wisconsin Act 28, is
4 amended to read:

5 302.042 (4) The department shall release an inmate who is serving a risk
6 reduction sentence to extended supervision when he or she serves ~~not less than~~ 75
7 percent of the term of confinement portion of his or her sentence imposed under s.

Insert
7/17

13C ← B
13d ← ✓

stays ✓

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SENATE BILL 318

Insert
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1 973.01 and the department determines that he or she has completed the
2 programming or treatment under his or her plan ~~and that the inmate maintained a~~
3 ~~good conduct record during his or her term of confinement.~~ Not less than 30 days
4 prior to release under this subsection, the department shall notify the sentencing
5 court that the inmate has thus far successfully completed the requirements of his or
6 her risk reduction sentence. ^{11.}

Insert
3.6

7 ~~SECTION 4.~~ 973.031 of the statutes, as created by 2009 Wisconsin Act 28, is
8 amended to read: ^{92m}

9 **973.031 Risk reduction sentence.** Whenever a court imposes a sentence for
10 a felony under s. 973.01, the court may order the person it sentences to serve a risk
11 reduction sentence if the court determines that a risk reduction sentence is
12 appropriate and the person agrees to cooperate in an assessment of his or her
13 criminogenic factors and his or her risk of reoffending, and to participate in
14 programming or treatment the department develops for the person under s. 302.042
15 (1). ~~This section does not apply if the court sentences a person for a violation of s.~~
16 ~~940.03, 940.06, 940.11 (1), 940.235, 940.302, 940.31 (1), 940.32 (3), 941.21, 946.465,~~
17 ~~948.03 (2) (a), or 948.40 (4) (a) or for a felony murder under s. 940.03, an offense~~
18 ~~against an elderly or vulnerable person, as defined in s. 939.22 (20d), an offense~~
19 ~~related to ethical government, as defined in s. 939.22 (20m), or an offense related to~~
20 ~~school safety, as defined in s. 939.22 (20s).~~ ^{11.}

21 **SECTION 4. Effective date.**

22 (1) This act takes effect on October 2, 2009.

23 (END)

SENATE BILL 315

The statutes also define the maximum term a court may sentence a person to spend in confinement as well as both the minimum and maximum term of extended supervision for classified felonies. The minimum term of extended supervision is not less than 25% of the time one is sentenced to confinement. The maximum terms of confinement and extended supervision for felonies other than a Class A felony are as follows:

- Class B felony: maximum term of confinement is 40 years; maximum term of extended supervision is 20 years.
- Class C felony: maximum term of confinement is 25 years; maximum term of extended supervision is 15 years.
- Class D felony: maximum term of confinement is 15 years; maximum term of extended supervision is 10 years.
- Class E felony: maximum term of confinement is 10 years; maximum term of extended supervision is 5 years.
- Class F felony: maximum term of confinement is 7.5 years; maximum term of extended supervision is 5 years.
- Class G felony: maximum term of confinement is 5 years; maximum term of extended supervision is 5 years.
- Class H felony: maximum term of confinement is 3 years; maximum term of extended supervision is 3 years.
- Class I felony: maximum term of confinement is 1.5 years; maximum term of extended supervision is 2 years.

This bill provides that the maximum term of extended supervision may not exceed 75% of the term of confinement for all crimes other than Class B felonies, Class C felonies, and the crimes defined as "sex offenses" under s. 301.45 (1d) (b), stats. For Class B and C felonies and sex offenses, the maximum terms of extended supervision set forth in current law apply.

Insert
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~~SECTION 973.01~~ (2) (d) (intro.) of the statutes is repealed and recreated to

read:

87m.

973.01 (2) (d) *Minimum and maximum term of extended supervision.* (intro.)

Except for a Class B felony, a Class C felony, or a crime described in s. 301.45 (1d) (b), the term of extended supervision may not be less than 25 percent nor more 75 percent of the length of the term of confinement in prison imposed under par. (b). For a Class B felony, a Class C felony, or a crime described in s. 301.45 (1d) (b), the term of extended supervision may not be less than 25 percent of the term of confinement in prison imposed under par. (b) and is subject to whichever of the following limits is applicable: 1)

SECTION 2. Initial applicability.