



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 444**

October 26, 1995 - Offered by Representative SERATTI.

1 **AN ACT to amend** 71.935 (1) (a), 301.37 (1), 302.38 (4), 302.381, 302.425 (1) (b),  
2 302.425 (3), 351.08, 973.03 (3) (d) and 973.09 (4); and **to create** 71.78 (4) (p),  
3 102.07 (17), 161.01 (12m) (f), 302.372, 303.08 (5m) and 303.10 of the statutes;  
4 **relating to:** county prisoners and county work camps.

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

5 **SECTION 1.** 71.78 (4) (p) of the statutes is created to read:

6 71.78 (4) (p) A municipality or county for the purpose of verifying information  
7 provided by a person on a form under s. 302.372 (2) (b).

8 **SECTION 2.** 71.935 (1) (a) of the statutes, as created by 1995 Wisconsin Act 27,  
9 is amended to read:

10 71.935 (1) (a) "Debt" means an unpaid fine, fee, restitution or forfeiture of at  
11 least \$20 or unpaid reimbursement for expenses of at least \$20 to which the county  
12 is entitled under s. 302.372, 302.38 (4), 302.381, 302.425 (3), 303.08 (5m) or 303.10  
13 (6).

14 **SECTION 3.** 102.07 (17) of the statutes is created to read:

1           102.07 (17) A prisoner of a county jail who is assigned to a work camp under  
2 s. 303.10 is not an employe of the county or counties providing the work camp while  
3 the prisoner is working under s. 303.10 (3).

4           **SECTION 4.** 161.01 (12m) (f) of the statutes is created to read:

5           161.01 (12m) (f) A work camp under s. 303.10.

6           **SECTION 5.** 301.37 (1) of the statutes is amended to read:

7           301.37 (1) The department shall fix reasonable standards and regulations for  
8 the design, construction, repair and maintenance of houses of correction,  
9 reforestation camps maintained under s. 303.07, jails as defined in s. 302.30,  
10 extensions of jails under s. 59.68 (7), rehabilitation facilities under s. 59.07 (76),  
11 lockup facilities as defined in s. 302.30, work camps under s. 303.10, Huber facilities  
12 under s. 303.09 and, after consulting with the department of health and social  
13 services, secure detention facilities, with respect to their adequacy and fitness for the  
14 needs which they are to serve.

15           **SECTION 6.** 302.372 of the statutes is created to read:

16           **302.372 Prisoner reimbursement to a county.** (1) DEFINITIONS. In this  
17 section:

18           (a) "Jail" includes a house of correction, Huber facility under s. 303.09 or a work  
19 camp under s. 303.10.

20           (b) "Jailer" includes a sheriff, superintendent or other keeper of a jail.

21           (2) REIMBURSEMENT OF EXPENSES; COUNTY OPTION. (a) Except as provided in pars.  
22 (c) and (d), a county may seek reimbursement for any expenses incurred by the  
23 county in relation to the crime for which a person was sentenced to a county jail, or  
24 for which the person was placed on probation and confined in jail, as follows:

1           1. From each person who is or was a prisoner, not more than the actual per-day  
2 cost of maintaining that prisoner, as set by the county board by ordinance, for the  
3 entire period of time that the person is or was confined in the jail, including any  
4 period of pretrial detention.

5           2. To investigate the financial status of the person.

6           3. Any other expenses incurred by the county in order to collect payments under  
7 this section.

8           (b) Before seeking any reimbursement under this section, the county shall  
9 provide a form to be used for determining the financial status of prisoners. The form  
10 shall provide for obtaining the social security number of the prisoner, the age and  
11 marital status of a prisoner, the number and ages of children of a prisoner, the  
12 number and ages of other dependents of a prisoner, the income of a prisoner, type and  
13 value of real estate owned by a prisoner, type and value of personal property owned  
14 by a prisoner, the prisoner's cash and financial institution accounts, type and value  
15 of the prisoner's investments, pensions and annuities and any other personal property of  
16 significant cash value owned by a prisoner. The county shall use the form whenever  
17 investigating the financial status of prisoners.

18           (c) This section applies to expenses incurred on or after the effective date of this  
19 paragraph .... [revisor inserts date].

20           (d) The jailer shall choose, for each prisoner, whether to seek reimbursement  
21 under this section or as otherwise provided in chs. 301 to 303, but may not collect for  
22 the same expenses twice. The jailer may choose to seek reimbursement for the  
23 expenses under sub. (2) (a) using the method under sub. (5), the method under sub.  
24 (6) or a combination of both methods, but may not seek reimbursement for the same  
25 expenses twice.

1           **(3) LIST OF PRISONERS; INFORMATION; REPORTS.** At the request of the county board,  
2 the jailer shall provide the board with a list containing the name of each sentenced  
3 prisoner or prisoner confined as a condition of probation, the term of sentence or  
4 confinement, and the date of admission, together with information regarding the  
5 financial status of each prisoner. The county board may direct the district attorney  
6 or corporation counsel for the county to investigate any information provided under  
7 this subsection to enable the county to obtain reimbursement under this section.

8           **(4) PRISONER COOPERATION.** A prisoner in a jail shall cooperate with the county  
9 in seeking reimbursement under this section for expenses incurred by the county for  
10 that prisoner. A prisoner who intentionally refuses to cooperate under this  
11 subsection may not earn good time credit under s. 302.43 or diminution of sentence  
12 under s. 303.19 (3). If the prisoner is confined as a condition of probation, refusal to  
13 cooperate is a ground for revocation of probation.

14           **(5) CHARGE TO OBTAIN REIMBURSEMENT.** The jailer may charge a prisoner for the  
15 expenses under sub. (2) (a) while he or she is a prisoner. If the jailer maintains an  
16 institutional account for a prisoner's use for payment for items from canteen,  
17 vending or similar services, the jailer may make deductions from the account to pay  
18 for the expenses under sub. (2) (a). Any money collected under this subsection shall  
19 be deposited in the county treasury.

20           **(6) ACTION TO OBTAIN REIMBURSEMENT.** (a) Within 12 months after the release  
21 of a prisoner from jail, the district attorney or corporation counsel for the county  
22 where the jail is located shall commence a civil action in circuit court to obtain a  
23 judgment for the expenses under sub. (2) (a) or be barred. The jailer shall provide  
24 any assistance that the district attorney or corporation counsel requests related to  
25 an action under this subsection.

1 (b) An action commenced under this subsection shall be commenced in the  
2 county where the jail is located or in the county where the defendant resides.

3 (c) The complaint in an action commenced under this subsection shall include  
4 the date and place of the sentence, the length of time of the sentence, the length of  
5 time actually served in the jail and the amount of expenses incurred by the county  
6 under sub. (2) (a).

7 (d) Before entering a judgment for the county, the court shall consider any legal  
8 obligations of the defendant for support or maintenance under ch. 767 and any moral  
9 obligation of the defendant to support dependants and may reduce the amount of the  
10 judgment entered for the county based on those obligations.

11 (e) Any money obtained as the result of an action commenced under this  
12 subsection shall be deposited in the county treasury.

13 **SECTION 7.** 302.38 (4) of the statutes, as affected by 1995 Wisconsin Act 43, is  
14 amended to read:

15 302.38 (4) The governmental unit paying the costs of medical or hospital care  
16 under this section, regardless of whether the care is provided in or out of the jail or  
17 house of correction, may collect the value of the same from the prisoner or the  
18 prisoner's estate as provided for in s. 49.08. If applicable, the governmental unit may  
19 proceed to collect under this section or may seek reimbursement under s. 302.372,  
20 but may not collect for the same expenses twice.

21 **SECTION 8.** 302.381 of the statutes is amended to read:

22 **302.381 Emergency services for crisis intervention for prisoners.** The  
23 costs of providing emergency services for crisis intervention for prisoners of a jail or  
24 house of correction with medical illnesses or disabilities, mental illnesses,  
25 developmental disabilities or alcohol or other drug abuse problems are payable

1 according to the criteria under s. 302.38 (2). If applicable, a county may seek  
2 payment under this section or seek reimbursement under s. 302.372, but may not  
3 collect for the same expenses twice.

4 **SECTION 9.** 302.425 (1) (b) of the statutes, as affected by 1995 Wisconsin Act 27,  
5 is amended to read:

6 302.425 (1) (b) "Jail" includes a house of correction, a work camp under s.  
7 303.10 and a Huber facility under s. 303.09.

8 **SECTION 10.** 302.425 (3) of the statutes, as affected by 1995 Wisconsin Acts 26  
9 and 27, is amended to read:

10 302.425 (3) PLACEMENT OF A PRISONER IN THE PROGRAM. If a prisoner described  
11 under sub. (2) and the department of corrections agree, the sheriff or superintendent  
12 may place the prisoner in the home detention program and provide that the prisoner  
13 be detained at the prisoner's place of residence or other place designated by the  
14 sheriff or superintendent and be monitored by an active electronic monitoring  
15 system. The sheriff or superintendent shall establish reasonable terms of detention  
16 and ensure that the prisoner is provided a written statement of those terms,  
17 including a description of the detention monitoring procedures and requirements  
18 and of any applicable liability issues. The terms may include a requirement that the  
19 prisoner pay the county a daily fee to cover the county costs associated with  
20 monitoring him or her. The county may obtain payment under this subsection or s.  
21 302.372, but may not collect for the same expenses twice.

22 **SECTION 11.** 303.08 (5m) of the statutes is created to read:

23 303.08 (5m) A county may receive payments under sub. (5) (a) and (b) or seek  
24 reimbursement under s. 302.372, but may not collect for the same expenses twice.

25 **SECTION 12.** 303.10 of the statutes is created to read:

1           **303.10 County work camp. (1)** (a) Subject to par. (b), the county board of  
2 any county may provide a work camp for the reformation and employment of persons  
3 sentenced to the county jail. Any 2 or more counties may jointly provide one work  
4 camp.

5           (b) Before establishing a work camp under par. (a), the county board or, if 2 or  
6 more counties want jointly to provide one work camp, the county boards of all of the  
7 counties providing the work camp shall agree with the sheriff who will administer  
8 the work camp concerning the staffing level of the work camp. If the bounty board  
9 or, if applicable, county boards and the sheriff do not reach an agreement concerning  
10 the staffing level of a work camp, the county board or, if applicable, county boards  
11 may not establish the work camp.

12           **(1g)** If a county board establishes a work camp under sub. (1), the sheriff of the  
13 county or a person designated by that sheriff shall administer the work camp unless  
14 the county board provides otherwise. If 2 or more counties jointly provide for one  
15 work camp under sub. (1), the sheriff of the county in which the work camp is located,  
16 or a person designated by that sheriff, shall administer the work camp unless the  
17 county boards of the counties that jointly established the work camp provide  
18 otherwise by unanimous agreement.

19           **(1r)** A work camp established under sub. (1) may be located within the house  
20 of correction of the county in which the work camp is located, if the county has a house  
21 of correction and if the work camp is operated as a separate unit from the house of  
22 correction.

23           **(2)** The sheriff may transfer persons between a county jail and a work camp.

24           **(3)** The sheriff may provide prisoners assigned to a work camp the opportunity,  
25 on a volunteer basis, to do any of the following:

1 (a) Perform meaningful work at paid employment in the community.

2 (c) Perform meaningful work on a project that serves the public interest or a  
3 charitable purpose and is operated by an organization that is exempt from federal  
4 income taxation under section 501 (c) (3) of the internal revenue code.

5 (4) The sheriff shall not assign prisoners to work under sub. (3) on projects in  
6 a manner that results in the displacement of employed persons in the community or  
7 the replacement of workers on strike or locked out of work. If a collective bargaining  
8 agreement is in effect at a place of employment that is the site of a proposed work  
9 project under sub. (3) (c), that bargaining unit must agree to the assignment of  
10 prisoners at the place of employment before the assignment is made.

11 (5) Any intentional failure of a prisoner to report to or return from a work  
12 assignment is considered an escape under s. 946.42 (3) (a).

13 (6) Any prisoner employed under sub. (3) (a) shall reimburse the county for  
14 food, clothing and daily travel expenses to and from work for days worked. The  
15 county may collect moneys under sub. (8) or may seek reimbursement under s.  
16 302.372, but may not collect for the same expenses twice.

17 (7) The sheriff shall collect the wages or salary of each prisoner employed under  
18 sub. (3) or require the prisoner to turn over the wages, salary or benefits in full when  
19 received. The sheriff shall deposit the wages, salary or benefits in a trust checking  
20 account and shall keep a ledger showing the status of the account of each prisoner.  
21 The wages or salary are not subject to garnishment in the hands of either the  
22 employer or the sheriff during the prisoner's term, and shall be disbursed only as  
23 provided in this section; but for tax purposes they are income of the prisoner.

24 (8) The sheriff shall disburse wages, salary or benefits collected under sub. (7)  
25 using the priority order under s. 303.08 (5).



1           **(10)** An employer that employs a prisoner for work under this section shall pay  
2 the prisoner at a rate set by the county board by ordinance.

3           **(11)** (a) Any officer, employe or agent of a county, employer or organization  
4 involved in the provision of any of the work camp options listed under sub. (3), and  
5 the county, employer and organization, are immune from civil liability for the death  
6 or injury of a prisoner caused by the good faith act or omission of the officer, employe  
7 or agent of the county, employer or organization related to carrying out any  
8 responsibilities under a work camp option.

9           (b) The immunity under this subsection includes any good faith act or omission  
10 that occurs during the transportation of a prisoner to or from a work camp option  
11 listed under sub. (3).

12           (c) The immunity under this subsection does not apply to any person whose act  
13 or omission involves reckless, wanton or intentional misconduct.

14           **SECTION 13.** 351.08 of the statutes is amended to read:

15           **351.08 Operation of motor vehicle by habitual traffic offender or**  
16 **repeat habitual traffic offender prohibited; penalty; enforcement.** Any  
17 person who is convicted of operating a motor vehicle in this state while the revocation  
18 under this chapter is in effect shall, in addition to any penalty imposed under s.  
19 343.44, be fined not to exceed \$5,000 and imprisoned not to exceed 180 days. No  
20 portion of the sentence may be suspended, except in a case where operating was  
21 made necessary by a situation of emergency, as determined by the court. Any person  
22 imprisoned under this section, on his or her request, may be allowed Huber law work  
23 privileges under s. 303.08 or may be allowed to work under s. 303.10 (3). For the  
24 purpose of enforcing this section, in any case in which the accused is charged with  
25 driving a motor vehicle while his or her license, permit or privilege to drive is

1 suspended or revoked or is charged with driving without a license, the court before  
2 hearing the charge shall determine whether the person is a habitual traffic offender  
3 or repeat habitual traffic offender and therefore barred from operating a motor  
4 vehicle on the highways of this state.

5 **SECTION 14.** 973.03 (3) (d) of the statutes is amended to read:

6 973.03 (3) (d) This subsection applies to persons who are sentenced to a county  
7 jail but are transferred to a Huber facility under s. 303.09, to a county work camp  
8 under s. 303.10 or to a tribal jail under s. 302.445.

9 **SECTION 15.** 973.09 (4) of the statutes is amended to read:

10 973.09 (4) The court may also require as a condition of probation that the  
11 probationer be confined during such period of the term of probation as the court  
12 prescribes, but not to exceed one year. The court may grant the privilege of leaving  
13 the county jail, Huber facility, work camp or tribal jail during the hours or periods  
14 of employment or other activity under s. 303.08 (1) (a) to (e) while confined under this  
15 subsection. The court may specify the necessary and reasonable hours or periods  
16 during which the probationer may leave the jail, Huber facility, work camp or tribal  
17 jail or the court may delegate that authority to the sheriff. In those counties without  
18 a Huber facility under s. 303.09, a work camp under s. 303.10 or an agreement under  
19 s. 302.445, the probationer shall be confined in the county jail. In those counties with  
20 a Huber facility under s. 303.09, the sheriff shall determine whether confinement  
21 under this subsection is to be in that facility or in the county jail. In those counties  
22 with a work camp under s. 303.10, the sheriff shall determine whether confinement  
23 is to be in the work camp or the county jail. The sheriff may transfer persons confined  
24 under this subsection between a Huber facility or a work camp and the county jail.  
25 In those counties with an agreement under s. 302.445, the sheriff shall determine

1 whether confinement under this subsection is to be in the tribal jail or the county jail,  
2 unless otherwise provided under the agreement. In those counties, the sheriff may  
3 transfer persons confined under this subsection between a tribal jail and a county  
4 jail, unless otherwise provided under the agreement. While subject to this  
5 subsection, the probationer is subject to s. 303.08 (1), (3) to (6), (8) to (12) and (14),  
6 or to s. 303.10, whichever is applicable, and to all the rules of the county jail, Huber  
7 facility, work camp or tribal jail and the discipline of the sheriff.

8 **SECTION 16. Initial applicability.**

9 (1) The treatment of section 302.372 of the statutes first applies to expenses  
10 incurred on the effective date of this subsection.

11 (END)