



State of Wisconsin  
2017 - 2018 LEGISLATURE

2017 Special Session

LRB-1233/P5  
CMH&MLJ;jek/jld/amn

DOA:.....Frederick, BB0163 - Eliminate Parole Commission and transfer responsibilities to DOC

**FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION  
ENGROSSED 2017 BILL**

**AN ACT** ...; **relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

This bill eliminates the parole commission as of January 1, 2018, and transfers to DOC the responsibility for interviewing inmates who are eligible for parole, making parole decisions, and determining appropriate programming for inmates seeking to be paroled. Under current law, a person who is convicted of committing a crime before December 31, 1999, may become eligible for parole after being confined in prison, a county house of corrections, or certain other facilities for a portion of his or her sentence for the crime. When he or she becomes eligible for parole, an eight-member parole commission within DOC consisting of a chairperson nominated by the governor and seven commission members appointed by the chairperson handles parole matters.

For further information see the *state* 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:*

**SECTION 1.** 15.01 (2) of the statutes, as affected by 2017 Wisconsin Act ... (this act), is amended to read:

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

\*\*\*\*NOTE: This is reconciled s. 15.01 (2). This SECTION has been affected by drafts with the following LRB numbers: -1233/P4 and -1321/P4.

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

15.06 (6) QUORUM. A majority of the membership of a commission constitutes a quorum to do business, except that vacancies shall not prevent a commission from doing business. This subsection does not apply to the ~~parole commission,~~ elections commission, or ethics commission.

**SECTION 3.** 15.145 (1) of the statutes is repealed.

**SECTION 4.** 15.145 (5) (intro.) of the statutes is amended to read:

15.145 (5) COUNCIL ON OFFENDER REENTRY. (intro.) There is created a council on offender reentry which is attached to the department of corrections under s. 15.03, which shall have the duties, responsibilities, and powers set forth under s. 301.095.

The council shall consist of 21 members, and the appointed members shall serve for 2-year terms and may be appointed for a maximum of 2 consecutive terms. The chairperson of the council shall be the secretary of corrections or the reentry director, as decided by the secretary of corrections. The chairperson may appoint subcommittees and the council shall meet no less frequently than 4 times per year at a date and location to be determined by the chairperson. Members of the council shall include the secretary of corrections, or his or her designee; the secretary of workforce development, or his or her designee; the secretary of health services, or his or her designee; the secretary of children and families, or his or her designee; the secretary of transportation, or his or her designee; the attorney general, or his or her designee; the ~~chairperson of the parole commission~~ director of parole, or his or her designee; the state superintendent of public instruction; the reentry director as appointed by the secretary of corrections; a current or former judge, as appointed by the director of state courts; an individual who has been previously convicted of, and incarcerated for, a crime in Wisconsin, as appointed by the secretary of corrections; and the following persons, as appointed by the governor:

**SECTION 5.** 17.07 (3m) of the statutes is amended to read:

17.07 **(3m)** Notwithstanding sub. (3), the ~~parole commission chairperson~~ director of parole may be removed by the governor, at pleasure.

**SECTION 6.** 20.410 (2) of the statutes is repealed.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

**SECTION 7.** 20.923 (4) (b) 6. of the statutes is repealed and recreated to read:

20.923 **(4)** (b) 6. Corrections, department of: director of parole.

**SECTION 8.** 230.08 (2) (e) 3e. of the statutes is amended to read:

230.08 (2) (e) 3e. Corrections — ~~7~~ 8.

**SECTION 9.** 230.08 (2) (pd) of the statutes is repealed.

**SECTION 10.** 230.337 of the statutes is repealed.

**SECTION 11.** 230.44 (1) (f) of the statutes is repealed.

**SECTION 12.** 301.03 (3) (intro.) of the statutes is amended to read:

301.03 (3) (intro.) ~~Administer~~ Decide whether to grant or deny parole to inmates, and administer parole, extended supervision, and probation matters, except that the decision to grant or deny parole to inmates shall be made by the parole commission and the decision to revoke probation, extended supervision, or parole, in cases in which there is no waiver of the right to a hearing, shall be made by the division of hearings and appeals in the department of administration. The secretary may grant special action parole releases under s. 304.02. The department shall promulgate rules to do all of the following:

**SECTION 13.** 301.048 (2) (am) 3. of the statutes is amended to read:

301.048 (2) (am) 3. ~~The parole commission grants him or her~~ He or she is granted parole under s. 304.06 and ~~requires~~ his or her participation in the program is required as a condition of parole under s. 304.06 (1x).

**SECTION 14.** 301.21 (1m) (c) of the statutes is amended to read:

301.21 (1m) (c) Any hearing to consider parole to which an inmate confined under this contract may be entitled by the laws of Wisconsin will be conducted by the ~~Wisconsin parole commission under rules of the department.~~

**SECTION 15.** 301.21 (2m) (c) of the statutes is amended to read:

301.21 (2m) (c) Any hearing to consider parole to which a prisoner confined under a contract under this subsection may be entitled by the laws of Wisconsin shall be conducted by the ~~Wisconsin parole commission under rules of the department.~~

**SECTION 16.** 302.045 (3) of the statutes is amended to read:

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

**SECTION 17.** 302.05 (3) (b) of the statutes is amended to read:

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

**SECTION 18.** 302.11 (1g) (b) (intro.) of the statutes is amended to read:

302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive mandatory release date reaches the presumptive mandatory release date specified under par. (am), the ~~parole commission~~ department shall proceed under s. 304.06 (1) to consider whether to deny presumptive mandatory release to the inmate. If the ~~parole commission~~ department does not deny presumptive mandatory release, the inmate shall be released on parole. The ~~parole commission~~ department may deny

presumptive mandatory release to an inmate only on one or more of the following grounds:

**SECTION 19.** 302.11 (1g) (b) 2. of the statutes is amended to read:

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

**SECTION 20.** 302.11 (1g) (c) of the statutes is amended to read:

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

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

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

**SECTION 22.** 302.11 (1m) of the statutes is amended to read:

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

**SECTION 23.** 302.11 (7) (c) of the statutes is amended to read:

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

**SECTION 24.** 304.01 (title) of the statutes is amended to read:

**304.01 (title) Parole ~~commission and commission chairperson~~; general duties.**

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

304.01 (1) The ~~chairperson of the parole commission shall administer and supervise the commission and its activities and~~ director of parole shall be the final parole-granting authority, ~~except as provided in s. 304.02.~~

**SECTION 26.** 304.01 (2) (intro.) of the statutes is renumbered 304.01 (2) and amended to read:

304.01 (2) The ~~parole commission~~ department shall conduct regularly scheduled interviews to consider the parole of eligible inmates of the adult correctional institutions under the control of the department of corrections, eligible inmates transferred under ch. 51 and under the control of the department of health services and eligible inmates in any county house of correction. ~~The department of corrections shall provide all of the following to the parole commission:~~

**SECTION 27.** 304.01 (2) (a) of the statutes is repealed.

**SECTION 28.** 304.01 (2) (b) of the statutes is repealed.

**SECTION 29.** 304.01 (2) (c) of the statutes is repealed.

**SECTION 30.** 304.01 (2) (d) of the statutes is repealed.

**SECTION 31.** 304.06 (1) (b) of the statutes is amended to read:

304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s. 302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the ~~parole commission~~ department

may parole an inmate of the Wisconsin state prisons or any felon or any person serving at least one year or more in a county house of correction or a county reforestation camp organized under s. 303.07, when he or she has served 25 percent of the sentence imposed for the offense, or 6 months, whichever is greater. Except as provided in s. 939.62 (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the ~~parole commission~~ department may parole an inmate serving a life term when he or she has served 20 years, as modified by the formula under s. 302.11 (1) and subject to extension under s. 302.11 (1q) and (2), if applicable. The person serving the life term shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). The secretary may grant special action parole releases under s. 304.02. The department ~~or the parole commission~~ shall not provide any convicted offender or other person sentenced to the department's custody any parole eligibility or evaluation until the person has been confined at least 60 days following sentencing.

**SECTION 32.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

304.06 (1) (c) (intro.) If an inmate applies for parole under this subsection, the ~~parole commission~~ department shall make a reasonable attempt to notify the following, if they can be found, in accordance with par. (d):

**SECTION 33.** 304.06 (1) (d) 1. of the statutes is amended to read:

304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons under par. (c) 1. to 3. of the manner in which they may provide written statements under this subsection, shall inform persons under par. (c) 3. of the manner in which they may attend interviews or hearings and make statements under par. (eg) and shall inform persons under par. (c) 3. who are victims, or family members of victims, of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1), (2), or (3), 948.02 (1) or



(2), 948.025, 948.06, or 948.07 of the manner in which they may have direct input in the parole decision-making process under par. (em). The ~~parole commission department~~ shall provide notice under this paragraph for an inmate's first application for parole and, upon request, for subsequent applications for parole.

**SECTION 34.** 304.06 (1) (e) of the statutes is amended to read:

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

**SECTION 35.** 304.06 (1) (eg) of the statutes is amended to read:

304.06 (1) (eg) The ~~parole commission~~ department shall permit any person under par. (c) 3. to attend any interview or hearing on the application for parole of an applicable inmate and to make a statement at that interview or hearing.

**SECTION 36.** 304.06 (1) (em) of the statutes is amended to read:

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

**SECTION 37.** 304.06 (1) (f) of the statutes is amended to read:

304.06 (1) (f) The ~~parole commission~~ department shall design and prepare cards for persons specified in par. (c) 3. to send to the ~~commission~~ department. The cards shall have space for these persons to provide their names and addresses, the

name of the applicable prisoner and any other information the ~~parole commission~~ department determines is necessary. The ~~parole commission~~ department shall provide the cards, without charge, to district attorneys. District attorneys shall provide the cards, without charge, to persons specified in par. (c) 3. These persons may send completed cards to the ~~parole commission~~ department. All ~~commission~~ department records or portions of records that relate to mailing addresses of these persons are not subject to inspection or copying under s. 19.35 (1). Before any written statement of a person specified in par. (c) 3. is made a part of the documentary record considered in connection with a parole hearing under this section, the ~~parole commission~~ department shall obliterate from the statement all references to the mailing addresses of the person. A person specified in par. (c) 3. who attends an interview or hearing under par. (eg) may not be required to disclose at the interview or hearing his or her mailing addresses.

**SECTION 38.** 304.06 (1) (g) of the statutes is amended to read:

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

**SECTION 39.** 304.06 (1m) (intro.) of the statutes is amended to read:

304.06 (1m) (intro.) The ~~parole commission~~ department may waive the 25 percent or 6-month service of sentence requirement under sub. (1) (b) under any of the following circumstances:

**SECTION 40.** 304.06 (1m) (b) of the statutes is amended to read:

304.06 **(1m)** (b) If the department ~~recommends orders~~ that the person be placed on parole that includes the condition under sub. (1x) ~~and the commission orders that condition.~~

**SECTION 41.** 304.06 (1q) (b) of the statutes is amended to read:

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

**SECTION 42.** 304.06 (1q) (c) of the statutes is amended to read:

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

**SECTION 43.** 304.06 (1x) of the statutes is amended to read:

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

**SECTION 44.** 304.06 (2) of the statutes is amended to read:

304.06 (2) No prisoner under sub. (1) may be paroled until the parole commission department is satisfied that the prisoner has adequate plans for suitable employment or to otherwise sustain himself or herself. The paroled prisoner shall report to the department in such manner and at such times as it requires.

**SECTION 45.** 304.06 (2m) (d) (intro.) of the statutes is amended to read:

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

**SECTION 46.** 304.06 (2m) (d) 1. of the statutes is amended to read:

304.06 (2m) (d) 1. The ~~parole commission or the~~ department shall consider residence as the voluntary concurrence of physical presence with intent to remain in a place of fixed habitation and shall consider physical presence as prima facie evidence of intent to remain.

**SECTION 47.** 304.06 (2m) (d) 2. of the statutes is amended to read:

304.06 (2m) (d) 2. The ~~parole commission or the~~ department shall apply the criteria for consideration of residence and physical presence under subd. 1. to the facts that existed on the date that the prisoner committed the serious sex offense that resulted in the sentence the prisoner is serving.

**SECTION 48.** 304.071 (1) of the statutes is amended to read:

304.071 (1) The ~~parole commission~~ department may at any time grant a parole to any prisoner in any penal institution of this state, or ~~the department may at any time~~ suspend the supervision of any person who is on probation or parole ~~to the department~~, if the prisoner or person on probation or parole is eligible for induction into the U.S. armed forces. The suspension of parole or probation shall be for the duration of his or her service in the armed forces; and the parole or probation shall

again become effective upon his or her discharge from the armed forces in accordance with regulations prescribed by the department. If he or she receives an honorable discharge from the armed forces, the governor may discharge him or her and the discharge has the effect of a pardon. Upon the suspension of parole or probation by the department, the department shall issue an order setting forth the conditions under which the parole or probation is suspended, including instructions as to where and when and to whom the person on parole shall report upon discharge from the armed forces.

**SECTION 49.** 809.86 (2) (e) of the statutes is amended to read:

809.86 (2) (e) Certiorari review of decisions or orders entered by the department of corrections, or the department of health services, or, if entered on or before the effective date of this paragraph ... [LRB inserts date], the parole commission in a proceeding or case specified in pars. (a) to (d).

**SECTION 50.** 950.04 (1v) (f) of the statutes is amended to read:

950.04 (1v) (f) To have the parole commission department make a reasonable attempt to notify the victim of applications for parole, as provided under s. 304.06 (1).

**SECTION 51.** 974.07 (4) (b) of the statutes is amended to read:

974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing addresses from completed information cards submitted by victims under ss. 51.37 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f), 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections, ~~the parole commission,~~ and the department of health services shall, upon request, assist clerks of court in obtaining information regarding the mailing address of victims for the purpose of sending copies of motions and notices of hearings under par. (a).

**SECTION 52.** 976.03 (23) (c) of the statutes is amended to read:

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

**SECTION 9108. Nonstatutory provisions; Corrections.**

(1) TRANSFER OF PAROLE COMMISSION.

(a) *Definitions.* In this subsection:

1. "Commission" means the parole commission.

2. "Department" means the department of corrections.

(b) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the commission become the assets and liabilities of the department.

(c) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the commission is transferred to the department.

(d) *Contracts.* All contracts entered into by the commission in effect on the effective date of this paragraph remain in effect and are transferred to the

department. The department shall carry out any obligations under those contracts unless modified or rescinded by the department to the extent allowed under the contract.

(e) *Rules and orders.* All rules promulgated by the commission in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until amended or repealed by the department. All orders issued by the commission in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until modified or rescinded by the department. The department may promulgate emergency rules under section 227.24 of the statutes to implement the transfer of commission responsibilities to the department for the period before the effective date of permanent rules but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.

(f) *Pending matters.* Any matter pending with the commission on the effective date of this paragraph is transferred to the department. All materials submitted to or actions taken by the commission with respect to the pending matter are considered as having been submitted to or taken by the department.

**SECTION 9408. Effective dates; Corrections.**

(1) PAROLE COMMISSION ELIMINATION. The treatment of sections 15.01 (2) (by SECTION 1), 15.06 (6), 15.145 (1) and (5) (intro.), 17.07 (3m), 20.410 (2), 20.923 (4) (b) 6., 230.08 (2) (e) 3e. and (pd), 230.337, 230.44 (1) (f), 301.03 (3) (intro.), 301.048 (2)

(am) 3., 301.21 (1m) (c) and (2m) (c), 302.045 (3), 302.05 (3) (b), 302.11 (1g) (b) (intro.) and 2., (c), and (d), (1m), and (7) (c), 304.01 (title), (1), and (2) (intro.), (a), (b), (c), and (d), 304.06 (1) (b), (c) (intro.), (d) 1., (e), (eg), (em), (f), and (g), (1m) (intro.) and (b), (1q) (b) and (c), (1x), (2), and (2m) (d) (intro.), 1., and 2., 304.071 (1), 809.86 (2) (e), 950.04 (1v) (f), 974.07 (4) (b), and 976.03 (23) (c) of the statutes and SECTION 9108 (1) of this act take effect on January 1, 2018.

**(END)**