



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2469/2
PJH:wlj:ph

2011 ASSEMBLY BILL 284

September 29, 2011 - Introduced by Representatives THIESFELDT, SPANBAUER, A. OTT, BROOKS, BALLWEG and ENDSLEY, cosponsored by Senator OLSEN. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** to create 973.09 (1d) of the statutes; **relating to:** eliminating the right
2 to refuse probation.

Analysis by the Legislative Reference Bureau

Under current law, when a person is convicted of committing a crime, except for certain serious crimes, the sentencing judge may withhold the person's sentence or impose a sentence but stay its execution and place the person on probation for a stated period. When a court places a person on probation, the judge may require the person to comply with conditions of probation that are reasonable and appropriate to the person's needs for punishment or rehabilitation, such as alcohol or other drug treatment or paying restitution. Under current law, if the court orders as a condition of probation that a person perform community service at a public agency or charitable organization, the person and the agency or organization must agree to the terms of performing community service. In *State v. Migliorino*, 150 Wis. 2d 513, 442 N.W. 2d (1989), the Wisconsin Supreme Court held that a person has the right to refuse to be put on probation and opt instead for imprisonment.

Under this bill, a person may not refuse to be put on probation and may not refuse any condition of probation, except that the bill does not change the requirement that the person and the public agency or charitable organization agree to the terms of the person's performance of community service at the agency or organization.

