



Legislative Fiscal Bureau

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February 28, 2002

Joint Committee on Finance

Paper #1255

Bifurcated Sentencing Modifications (Truth-in-Sentencing)

[LFB Summary of the Governor's Budget Reform Bill: Page 88, #1]

CURRENT LAW

For all felony offenses committed on or after December 31, 1999, except for those punishable by life imprisonment, felons sentenced to prison are given a bifurcated (two-part) sentence, under which a sentencing judge specifies an amount of time a convicted felon will serve in prison and an amount of time a felon will serve in the community on extended supervision. The bifurcated (determinate) sentencing structure is commonly known as "truth-in-sentencing." Judges may also fine an offender in addition to or instead of imposing a bifurcated sentence or jail term or may place a felon on probation. Felons sentenced to life imprisonment do not receive an extended supervision sentence, but rather may apply for extended supervision release under specific circumstances.

GOVERNOR

Modify provisions of the state's sentencing system. Create a Sentencing Commission, to sunset on December 31, 2007, and provide \$140,000 GPR in 2002-03 and 6.0 GPR positions, including an unclassified executive director and an unclassified deputy director.

DISCUSSION POINTS

1. In 1997 Act 283, the Legislature enacted legislation which abolished parole and instead created a "truth-in-sentencing" system. Under truth-in-sentencing, courts are required, for offenses occurring on or after December 31, 1999, to impose a bifurcated sentence for those offenders sentenced to prison, other than offenders sentenced to life imprisonment, that consists of a term of confinement in prison of not less than one year, followed by a term of extended supervision

of not less than 25% of the length of the term of confinement. Under truth-in-sentencing, a prisoner is required to serve 100% of the sentence. Act 283 also increased the maximum sentences for most felonies by 50%, or one year, whichever was greater. Because truth-in-sentencing applies only to sentences for crimes committed on or after December 31, 1999, the correctional system will, for many years, have offenders sentenced under the old sentencing system and eligible for parole, offenders sentenced under the new bifurcated system, and offenders with both kinds of sentences. Upon release from prison, offenders sentenced under the previous system will be placed on parole supervision, while offenders released under truth-in-sentencing will be placed on extended supervision. Unlike parole, Act 283 authorizes judges to impose conditions on the extended supervision term. Act 283 also eliminates the intensive sanctions program as an option for the confinement portion of a bifurcated sentence.

Act 283 created a Criminal Penalties Study Committee (CPSC) to study the classification of criminal offenses in the criminal code, the penalties for all felonies and Class A misdemeanors and issues relating to the implementation of the changes in sentencing made by the Act. In addition, the Committee was required to make recommendations concerning:

- a. Creating a uniform classification system for all felonies, including felonies outside the criminal code;
- b. Classifying each felony and Class A misdemeanor in a manner that places crimes of similar severity into the same classification;
- c. Consolidating all felonies into a single criminal code;
- d. The creation of a sentencing commission to promulgate advisory sentencing guidelines for use by judges when imposing sentence;
- e. Temporary advisory sentencing guidelines for use by judges when imposing sentence during the period before the promulgation of advisory sentencing guidelines by a sentencing commission; and
- f. Changing the administrative rules of the Department of Corrections to ensure that a person who violates a condition of extended supervision imposed as part of a bifurcated sentence is returned to prison promptly and for an appropriate period of time.

The Criminal Penalties Study Committee first met on August 28, 1998. Act 283 required the Committee to submit a report of its findings and recommendations to the Legislature and Governor by April 30, 1999. The Committee found this deadline unrealistic "in light of the magnitude of the tasks assigned to it" and because it had great difficulty in securing adequate and reliable data. As a result, the Committee requested a deadline extension to August 31, 1999. The Committee submitted its final report to the Legislature and Governor on August 31, 1999, along with proposed legislation that was introduced as 1999 Assembly Bill 465 and 1999 Senate Bill 237. In addition, 1999 Senate Bill 357 (the 1999 Senate budget adjustment bill) included provisions of the CPSC recommendations. Assembly Bill 465 passed the Assembly and Senate

Bill 357 passed the Senate, but neither bill was passed by the other house during the 1999 Session.

2. In the 2001 legislative session, 2001 Assembly Bill 3, related to the CPSC recommendations, was introduced. Assembly Bill 3, as amended, was passed by the Assembly on February 14, 2001, and Engrossed AB 3 has been referred by the Senate to the Senate Judiciary, Consumer Affairs and Campaign Finance Reform Committee. No Senate bill has been introduced in the 2001 legislative session related to the CPSC recommendations.

3. Special Session Assembly Bill 1 generally incorporates the provisions of the CPSC recommendations. These provisions are detailed in the Legislative Fiscal Bureau's Summary of Provisions: Governor's 2001-03 Budget Reform Bill, February, 2002, pages 88 to 101.

4. In general, the provisions of the truth-in-sentencing bills that have passed one house of the Legislature (1999 SB 357 and 2001 Engrossed AB 3) in the last two legislative sessions have been similar. There are, however, areas of difference. The attachment identifies the differences in the truth-in-sentencing provisions under 2001 SS AB 1, 2001 Engrossed AB 3 and 1999 SB 357. The Committee may wish to utilize the attachment in making decisions related to the truth-in-sentencing provision in SS AB 1. It should be noted that the table does not identify technical changes or changes as a result of the creation of a new felony offense. Also note that felony thresholds for certain property crimes are addressed in a separate issue paper under the State Public Defender (Paper #1215). Except as noted, SS AB 1 treats new felony offenses enacted by the Legislature since the CPSC recommendations by using the same classification schema developed by the CPSC.

5. The item in the attachment relating to the effectiveness of probation, parole and extended supervision, which is contained only in 1999 SB 357, would require Corrections, beginning on January 1, 2001, to do the following in Brown, Dane, Kenosha, Milwaukee, Racine and Rock Counties: (a) develop a partnership with the community; (b) have strategies for local crime prevention; (c) supervise offenders actively; (d) commit additional resources to enhance supervision and purchase services for offenders; (e) establish day reporting centers; and (f) ensure that agents supervise no more than 20 persons on probation, extended supervision and parole. The requirements to commit additional purchase of service resources, establish day reporting centers and provide a one-to-20 supervision ratio in those six counties could require potentially significant additional resources for those counties, which would be identified by Corrections under a plan to be submitted to the Joint Committee on Finance. If the provision were enacted, any changes in funding, positions and program design would need to be addressed through subsequent legislative action and modification in departmental procedures or administrative rules.

6. Under SS AB 1, \$140,000 GPR and 6.0 GPR positions (1.0 GPR unclassified executive director, 1.0 GPR unclassified deputy director and 4.0 GPR classified positions) are created in 2002-03 to staff the Sentencing Commission. The proposed staffing is identical to that recommended by the CPSC. Costs associated with the Commission were derived from the CPSC report. Funding under the bill would be divided as follows: (a) salaries and fringe benefits, \$92,000 GPR; (b) supplies and services, including rent and publications costs, \$37,000 GPR; and (c) one-

time costs, \$11,000 GPR. The Committee should note, however, that funding under SS AB 1 is intended to support only the costs associated with the executive and deputy director positions for nine months in 2002-03. The remaining 4.0 positions would need to be funded in the 2003-05 biennium, at a cost of \$271,700 GPR in 2003-04 and \$249,700 GPR in 2004-05.

7. Under the SS AB 1, the Sentencing Commission and its staff would be required to: (a) monitor and compile data regarding sentencing practices in the state; (b) adopt advisory sentencing guidelines for felonies committed on or after the effective date of the bill, to promote public safety, to reflect changes in sentencing practices and to preserve the integrity of the criminal justice and correctional systems; (c) provide information to the Legislature, state agencies and the public regarding the costs to and other needs of the Department of Corrections which result from sentencing practices; (d) provide information to judges and lawyers about the sentencing guidelines; (e) publish and distribute to all circuit judges hearing criminal cases an annual report regarding its work, which must include all sentencing guidelines and all changes in existing sentencing guidelines adopted during the preceding year; (f) study whether race is a basis for imposing sentences in criminal cases and submit a report and recommendations on this issue to the Governor, to each house of the Legislature and to the Supreme Court; (g) assist the Legislature in assessing the cost of enacting new or revising existing statutes affecting criminal sentencing; (h) study how sentencing options affect various types of offenders and offenses; and (i) at least semiannually, submit reports to all circuit judges, and to the appropriate standing committees of the Legislature, that contain statistics regarding criminal sentences. While all of these requirements would not need to be completed within the first year of the Commission's existence, it could be argued that progress would be significantly hindered by having only a director and deputy director position in 2002-03. Funding of the additional 4.0 staff positions recommended by the CPSC would require an additional \$144,800 GPR in 2002-03.

8. Alternatively, the bill could be modified to remove the 4.0 unfunded positions in the Sentencing Commission. If the Sentencing Commission determines that these positions are necessary, additional funding and position authority could be requested in the 2003-05 biennial budget.

9. Except for the Sentencing Commission, the bill makes no appropriation of funds. There are, however, provisions in SS AB 1 which may either increase or decrease state costs in both the short-term and long-term. These provisions include:

a. *Crime Classification Modifications.* The intent of the CPSC recommendations was, generally, to create a uniform classification system for all felonies, including felonies outside the criminal code, in a manner that places crimes of similar severity into the same classification, and to create penalties under which the maximum time a person could serve in prison under truth-in-sentencing would roughly parallel the maximum sentence mandatory release date under the prior indeterminate sentencing structure. Because 1997 Act 283 increased all penalties by 50%, or one year, whichever is greater, the impact of SS AB 1 would be to generally lower maximum penalties. The changes in the classifications of some crimes and the creation of some revised criminal offenses would, overall, likely reduce the length of prison time served and extended supervision sentences, and therefore state costs.

b. *County Reimbursement for Sanctioned Extended Supervision Holds.* The requirement that the state reimburse counties for the actual costs of confining extended supervision offenders held as a sanction for violation of extended supervision could increase or decrease state costs. Under the bill, funding for county reimbursement would come from Corrections' community corrections and corrections contracts appropriations. Currently, Corrections cannot hold individuals in county jails as a sanction for violating a rule of probation or parole. Individuals may be held in county jails pending the revocation of their probation extended supervision or parole for noncriminal rules violations and counties are reimbursed up to \$40 per day for such felons held pending revocation. To the extent that fewer offenders are held for rules violations pending revocation, costs to the reimbursement appropriation, and prison costs, may decrease. However, if more offenders are held under a sanction or held for longer periods of time than they would have been held pending revocation, reimbursement costs would increase. Further, the provision in the bill would require counties to be reimbursed for actual costs, which would likely be greater than \$40 per day and would not be subject to proration. The bill does not specify what is included in actual costs or indicate who would determine this amount.

c. *Judicial Determination of Extended Supervision Revocation Length.* Under SS AB 1, judges would determine the length of additional incarceration time to be provided to an extended supervision offender whose extended supervision is being revoked, which is currently, determined by either the Department of Corrections or an administrative law judge. The additional step of requiring a sentencing judge to hold a hearing to impose a specific length of reincarceration would require increased court time for the court, Corrections, District Attorneys and, if provided, the Public Defender. To the extent that revocation reincarceration hearings do not significantly increase caseloads, costs would not increase. However, if hearings require increased court, prosecutorial, defense and Corrections resources, costs to the state would be higher.

d. *Extended Supervision Modifications.* The bill would allow offenders or Corrections to petition the sentencing court to modify the conditions of extended supervision. As with judicial determination of extended supervision revocation length, increased costs could result for the court, Corrections, District Attorneys and the Public Defenders.

e. *Corrections Staff Requirements.* Under the bill, Corrections staff would be involved with geriatric and medical sentence modification hearings, conditions of extended supervision hearings and seeking circuit court review of any decision not to revoke an offender's extended supervision by an action for certiorari. If these hearings result in increased caseload beyond what can be addressed by existing staff, costs to Corrections may be higher.

f. *Geriatric and Medical Release.* Under the bill, in specific circumstances older or terminally ill inmates could petition the sentencing court to modify a sentence by placing an inmate on extended supervision prior to the expiration of an incarceration sentence. To the extent that any individual meets these criteria and is placed on extended supervision prior to the expiration of an incarceration sentence, costs to the state would decrease. It should be noted that since the bill requires an individual to have served at least five years of an incarceration sentence

before becoming eligible for the geriatric release provision, such releases would not occur until at least late 2005.

g. *Limitation on Extended Supervision Sentences.* Under 1997 Act 283, maximum extended supervision sentences were set at one-half or more of the maximum confinement time. This provision did not, however, preclude the possibility of a short incarceration sentence followed by a lengthy extended supervision sentence. To mitigate this possibility and potentially reduce future costs, the bill places specific caps on extended supervision sentences for each felony classification. The CPSC indicates that the proposed limits would "allow for sufficient supervision given the nature of the crimes proposed for inclusion in each of the felony classes while advancing public safety and offender rehabilitation goals that underlie the notion of supervision upon release from prison. The Committee believes these purposes of extended supervision can realistically be accomplished within the proposed limits without consuming resources of supervision so far into the future that no one knows what they will even be."

h. *Elimination of Mandatory Minimum and Mandatory Consecutive Sentences.* Under the bill, certain current law provisions creating minimum sentences or mandatory consecutive sentences would be repealed. The CPSC indicates that this change "allows the court maximum sentencing discretion to deal with the multitude of offenders who commit crimes and the multitude of ways in which they do so." To the extent that judges decide to impose a sentence that is less than would have been required under current law, incarceration costs to the state would be reduced.

i. *Reclassification of Criminal Offenses.* As indicated previously, the reclassification of felony sentences into nine instead of six classes and basing maximum prison sentence lengths in those classes on prior mandatory release times under prior law would have the effect of mitigating the increased sentence lengths provided under 1997 Act 283. Without the changes proposed in the bill, 1997 Act 283 changes remain and corrections costs would be higher than under the bill.

10. In a September, 2001, report related to offenders admitted under truth-in-sentencing, Corrections indicated:

"Based on an analysis of admissions over an eighteen month period, it appears confinement times for offenders sentenced under TIS [truth-in-sentencing] are, on average, longer than confinement periods for offender sentenced under an indeterminate sentencing structure in prior years. It is therefore reasonable to infer that Wisconsin DOC populations will increase as a result of emerging TIS sentencing patterns. Currently, the magnitude of this increase has been estimated based on a specific subgroup of offenders admitted under TIS. Actual population and cost impact on the Department, however, will continue to be dependent on sentencing patterns exhibited by the judiciary."

11. Passage of the truth-in-sentencing provisions under the Governor's recommendation, or passage of other similar legislation, will result in lowered correctional system costs over the long term by moderating sentence lengths. It is not possible, however, to determine the amount of these savings because savings will depend on judicial sentencing patterns under the revised sentencing

structure. Despite the potential long-term savings, the differences between SS AB 1 and the two other truth-in-sentencing bills reflect policy rather than fiscal, alternatives. The Committee may, therefore, wish to delete the provision to allow standing Committee consideration of the policy issues.

ALTERNATIVES TO BILL

A. Sentencing System

1. Approve the Governor's recommendation to modify provisions of the state's sentencing system.

2. Modify the bill related to the state's sentencing system by selecting one or more of the following alternatives. (A detailed description of each alternative is identified in the attachment.)

a. Modification of Bifurcated Sentences

(1) Allow a court to modify a bifurcated sentence and require the Director of State Courts to promulgate rules establishing the procedure. (1999 Senate Bill 357) [Cannot be selected with Alternative 2b(1).]

(2) Take no action.

b. Joint Review Committee on Criminal Penalties Recommendations Regarding Sentencing Modifications

(1) Include SS AB 1 provision to require the Joint Review Committee on Criminal Penalties to submit a report to the Legislature and the Governor, no later than July 1, 2003, containing recommendations regarding standards and procedures to be used by a court to modify a bifurcated sentence. (2001 SS AB 1) [Cannot be selected with Alternative 2a(1).]

(2) Delete SS AB 1 provision.

c. General Sentencing Requirements

(1) Include SS AB 1 provision to, in addition to considering the sentencing guidelines and aggravating and mitigating factors, require the court to consider: (a) the protection of the public; (b) the gravity of the offense; and (c) the rehabilitative needs of the defendant. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

d. Documentation of Sentencing Decision

(1) Require the court to make explicit findings of fact on the record to support each element of its sentencing decision. (1999 SB 357)

(2) Take no action.

e. Court-Ordered Drug Treatment

(1) Specify that when the court imposes a sentence or places a person on probation for any offense committed on or after the effective date of the bill, the court may order the person to participate in a drug treatment program as a condition of probation or, while in prison or as a condition of extended supervision or both. Specify that the court may order Corrections to pay for the cost of drug treatment. (2001 Engrossed AB 3)

(2) Take no action.

f. Standard of Review on Appeal

(1) Specify that in an appeal from a court's sentencing decision, the appellate court is required to reverse the sentencing decision if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision or there is not substantial evidence in the record to support the sentencing decision. (1999 SB 357)

(2) Take no action.

g. Consecutive and Concurrent Sentences

(1) Include SS AB 1 provision to create specific provisions related to the sentencing of: (a) a determinate sentence to run concurrently with or consecutive to determinate sentences; (b) a determinate sentence to run concurrently with or consecutive to indeterminate sentences; and (c) an indeterminate sentence to run concurrently with or consecutive to determinate sentences. Specify that if a person is serving concurrent determinate sentences and extended supervision is revoked in each case, or if a person is serving a determinate sentence concurrent with an indeterminate sentence and both extended supervision and parole are revoked, the person must concurrently serve any periods of confinement in prison required under those sentences. (2001 SS AB 1)

(2) Specify that if a court provides that a bifurcated sentence is to run concurrent with or consecutive to a sentence to prison other than another bifurcated sentence, the court is

required to do all of the following: (a) order the term of confinement in prison under the bifurcated sentence to be concurrent with or consecutive to the term of confinement in prison required under the nonbifurcated sentence; and (b) order the period of parole under the nonbifurcated sentence to be concurrent with or consecutive to the term of extended supervision required under the bifurcated sentence.

Specify that if a court imposes a sentence to prison that is not a bifurcated sentence and provides that the nonbifurcated sentence is to run concurrent with or consecutive to a bifurcated sentence, the court is required to do all of the following: (a) order the term of confinement in prison under the nonbifurcated sentence to be concurrent with or consecutive to the term of confinement in prison required under the bifurcated sentence; and (b) order the period of parole under the nonbifurcated sentence to be concurrent with or consecutive to the term of extended supervision required under the bifurcated sentence. (1999 SB 357)

(3) Delete SS AB 1 provision.

h. *Consecutive Sentence Computation*

(1) Include SS AB 1 provision to specify that all consecutive sentences for crimes committed before December 31, 1999, be computed as one continuous sentence, and specify that all consecutive sentences imposed for crimes committed on or after December 31, 1999, be computed as one continuous sentence. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

i. *Mandatory Minimum Sentences and Probation Prohibitions for Repeat Serious Sex Crime and Serious Violent Crimes*

(1) Include SS AB 1 provision to reduce the minimum applicable sentence length. (2001 SS AB 1)

(2) Repeal the mandatory minimum sentences and probation prohibitions for repeat serious sex crime and serious violent crimes. (1999 SB 357)

(3) Delete SS AB 1 provision, thus maintaining the higher minimum applicable sentence length.

j. *Intentionally Causing Bodily Harm to an Unborn Child By Conduct that Creates a Substantial Risk of Great Bodily Harm*

(1) Include SS AB 1 provision to classify the offense as a Class H felony (a 3-year maximum sentence), consistent with the CPSC classification schema. (2001 SS AB 1)

(2) Repeal the provision. (1999 SB 357)

(3) Delete SS AB 1 provision. (Selection of this alternative would result in the offense remaining classified as a Class D felony [a 15-year maximum sentence under the bill] as opposed to a Class H offense.)

k. *Medical Release*

(1) Include SS AB 1 provision to specify that an inmate may request release from prison, if the inmate has a terminal condition. Define "terminal condition" as an incurable condition afflicting a person, caused by injury, disease, or illness, as a result of which the person has a medical prognosis that his or her life expectancy is six months or less, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

L. *Consolidation of Extended Supervision Revocation Proceedings*

(1) Include SS AB 1 provision to allow revocation proceedings related to the same person to be consolidated. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

m. *Videotape Deposition at Extended Supervision Revocation Proceedings*

(1) Include SS AB 1 provision to allow the use of videotaped depositions in revocation hearings. (2001 SS AB 1)

(2) Delete SS AB 1 provision.

n. *Effectiveness of Probation, Parole and Extended Supervision*

(1) Require Corrections to take steps to promote the increased effectiveness of probation, extended supervision and parole in Brown, Dane, Kenosha, Milwaukee, Racine and Rock counties. Require that in each of these counties, Corrections, beginning ten months after the effective date of the bill, develop a partnership with the community, have strategies for local crime prevention, supervise offenders actively, commit additional resources to enhance supervision and purchase services for offenders, establish day reporting centers and ensure that probation, extended supervision and parole agents, on average, supervise no more than 20

persons on probation, extended supervision or parole. Require that four months after the effective date of the bill, Corrections begin to reduce caseloads in these counties. Require that no later than two months after the effective date of the bill, Corrections develop a plan for implementing the provisions and submit that plan to the Joint Committee on Finance. (1999 SB 357, modified to reflect current legislative session)

(2) Take no action.

o. *Sentencing Commission Membership*

(1) Include SS AB 1 provision to create a Sentencing Commission consisting of 21 members, including seven public members.

(2) Create a Sentencing Commission consisting of 20 members, including six public members. (1999 SB 357)

p. *Sentencing Guidelines Adopted as Administrative Rules*

(1) Include SS AB 1 provision to specify that guidelines and standards adopted by the Sentencing Commission not be subject to the administrative rules process. (2001 SS AB 1)

(2) Delete SS AB 1 provision. (Selection of this alternative would result in guidelines and standards adopted by the Sentencing Commission being subject to the administrative rules process as proposed in 1999 SB 357.)

q. *Effective Date*

(1) Provide that the penalty provisions become effective on the effective date of the bill (1999 SB 357) to first apply to offenses committed on the effective date.

(2) Take no action.

3. Delete provisions related to the modification of the state's sentencing system.

B. Sentencing Commission Staffing

1. Provide \$140,000 GPR in 2002-03 and 6.0 GPR positions, for a newly-created Sentencing Commission, including an unclassified executive director and an unclassified deputy director.

2. Provide an additional \$144,800 GPR in 2002-03 to support the costs of 4.0 GPR positions created in the Sentencing Commission for nine months.

Alternative B2	GPR
2001-03 FUNDING	\$144,800

3. Delete 4.0 GPR positions in the Sentencing Commission.

Alternative B3	GPR
2002-03 POSITIONS	- 4.00

4. Delete the provision.

Alternative B4	GPR
2001-03 FUNDING	- \$140,000
2002-03 POSITIONS	- 6.00

Prepared by: Jere Bauer
Attachment

ATTACHMENT

**Differing Truth-in-Sentencing Provisions Under
2001 SS AB 1, 2001 Engrossed AB 3 and 1999 SB 357**

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Modification of Bifurcated Sentences	See "Joint Committee on Criminal Penalties, Recommendations Regarding Sentencing Modifications" item.	See "Joint Committee on Criminal Penalties, Recommendations Regarding Sentencing Modifications" item.	<p>Allow a court at any time to modify a bifurcated sentence that the court previously imposed by reducing the term of confinement in prison portion of the sentence and lengthening the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed does not change. Specify that a proceeding to modify a bifurcated sentence be conducted using the procedure established and the factors specified by the Director of State Courts.</p> <p>Specify that by July 1, 2000, the Director of State Courts promulgate rules that establish a procedure by which a sentencing court may modify a bifurcated sentence and that specify the factors that a court may consider when deciding whether to modify a bifurcated sentence. Require that the rules provide that a court may modify a bifurcated sentence on its own motion, on a motion of the Department of Corrections or on a motion of the person serving the sentence. Specify that the rules provide that a court and Corrections may make a motion to modify a bifurcated sentence at any time and that a person serving a bifurcated sentence may make a motion to modify the bifurcated sentence that he or she is serving if at least 12 months have elapsed since the bifurcated sentence was imposed or since the most recent motion to modify the person's bifurcated sentence was made.</p>

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Joint Review Committee on Criminal Penalties, Recommendations Regarding Sentencing Modifications	Require the joint review committee to submit a report to the Legislature and the Governor, no later than July 1, 2003, containing recommendations regarding standards and procedures to be used by a court to modify a bifurcated sentence. The report would be required to include any proposed legislation that is necessary to implement the recommendations. Any proposed legislation must provide that a bifurcated sentence that a court previously imposed could be modified only by reducing the term of confinement in prison portion of the sentence and lengthening the term of extended supervision imposed so that the total length of the bifurcated sentence originally imposed would not change.	Same provision as SS AB 1, except the report would be due no later than six months after the effective date of the bill but before January 1, 2003.	No provision.
General Sentencing Requirements	In sentencing, require the court to consider: (a) the protection of the public; (b) the gravity of the offense; and (c) the rehabilitative needs of the defendant.	Same provision as SS AB 1.	No provision.
Documentation of Sentencing Decision	Require the court to state the reason for its sentencing decision on the record.	Same provision as SS AB 1.	Require the court to make explicit findings of fact on the record to support each element of its sentencing decision, including its decision as to whether to impose a bifurcated sentence or to place a person on probation and its decision as to the length of a bifurcated sentence, including the length of each component of the bifurcated sentence, the amount of the fine and the length of a term of probation.
Court-Ordered Drug Treatment	No provision.	Specify that when the court imposes a sentence or places a person on probation for any offense committed on or after the effective date of the bill, the court may order the person to participate in a drug treatment program as a condition of probation or, while in prison or as a condition of extended	Same provision as Engrossed AB 3, except the provision would be effective for offenses committed on or after July 1, 2000.

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
		supervision or both. Specify that the court may order Corrections to pay for the cost of drug treatment.	
Standard of Review on Appeal	Specify that in an appeal from a court's sentencing decision, the appellate court could reverse the sentencing decision only if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision.	Same as SS AB 1.	Specify that in an appeal from a court's sentencing decision, the appellate court is required to reverse the sentencing decision if it determines that the sentencing court erroneously exercised its discretion in making the sentencing decision or there is not substantial evidence in the record to support the sentencing decision.
Consecutive and Concurrent Sentences	<p>Create the following definitions: (a) "determinate sentence," a bifurcated sentence or a life sentence under which a person is eligible for release to extended supervision; (b) "indeterminate sentence," a sentence to the Wisconsin state prisons other than a determinate sentence or a sentence under which the person is not eligible for release on parole; and (c) "period of confinement in prison," with respect to any sentence to the Wisconsin state prisons, any time during which a person is incarcerated under that sentence, including any extensions and any period of confinement in prison required to be served as a result of revocation.</p> <p><i>Determinate Sentence to Run Concurrently with or Consecutive to Determinate Sentences.</i> Specify that if a court provides that a determinate sentence is to run concurrently with another determinate sentence, the person sentenced would be required to serve the periods of confinement in prison under the sentences concurrently and the terms of extended supervision under the sentences concurrently. If a court provides that a determinate sentence is to run consecutive to another determinate sentence, the person sentenced would be required to serve the periods of confinement in prison under the sentences consecutively and the</p>	Same provision as SS AB 1.	<p>Specify that if a court provides that a bifurcated sentence is to run concurrent with or consecutive to a sentence to prison other than another bifurcated sentence, the court is required to do all of the following: (a) order the term of confinement in prison under the bifurcated sentence to be concurrent with or consecutive to the term of confinement in prison required under the nonbifurcated sentence; (b) order the period of parole under the nonbifurcated sentence to be concurrent with or consecutive to the term of extended supervision required under the bifurcated sentence.</p> <p>Specify that if a court imposes a sentence to prison that is not a bifurcated sentence and provides that the nonbifurcated sentence is to run concurrent with or consecutive to a bifurcated sentence, the court is required to do all of the following: (a) order the term of confinement in prison under the nonbifurcated sentence to be concurrent with or consecutive to the term of confinement in prison required under the bifurcated sentence; (b) order the period of parole under the nonbifurcated sentence to be concurrent with or consecutive to the term of extended supervision required under the bifurcated sentence.</p>

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
	<p>terms of extended supervision under the sentences consecutively and in the order in which the sentences have been pronounced.</p> <p><i>Determinate Sentence to Run Concurrently with or Consecutive to Indeterminate Sentences.</i> Specify that if a court provides that a determinate sentence is to run concurrently with an indeterminate sentence, the person sentenced would be required to serve the period of confinement in prison under the determinate sentence concurrently with the period of confinement in prison under the indeterminate sentence and the term of extended supervision under the determinate sentence concurrently with the parole portion of the indeterminate sentence. If a court provides that a determinate sentence is to run consecutive to an indeterminate sentence, the person sentenced would be required to serve the period of confinement in prison under the determinate sentence consecutive to the period of confinement in prison under the indeterminate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.</p> <p><i>Indeterminate Sentence to Run Concurrently with or Consecutive to Determinate Sentences.</i> Specify that if a court provides that an indeterminate sentence is to run concurrently with a determinate sentence, the person sentenced would be required to serve the period of confinement in prison under the indeterminate sentence concurrently with the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence concurrently with the term of extended supervision required under the determinate sentence. If a court provides that an indeterminate sentence is to</p>		

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
	<p>run consecutive to a determinate sentence, the person sentenced would be required to serve the period of confinement in prison under the indeterminate sentence consecutive to the period of confinement in prison under the determinate sentence and the parole portion of the indeterminate sentence consecutive to the term of extended supervision under the determinate sentence.</p> <p>Revocation in Multiple Sentence Cases. Specify that if a person is serving concurrent determinate sentences and extended supervision is revoked in each case, or if a person is serving a determinate sentence concurrent with an indeterminate sentence and both extended supervision and parole are revoked, the person must concurrently serve any periods of confinement in prison required under those sentences.</p> <p>No Parole. Clarify that a person serving a bifurcated sentence is not eligible for release on parole under that sentence. (A person may be paroled under an indeterminate sentence running concurrently or consecutively with the bifurcated sentence.)</p>		

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Consecutive Sentence Computation	Specify that all consecutive sentences for crimes committed before December 31, 1999, be computed as one continuous sentence, and specify that all consecutive sentences imposed for crimes committed on or after December 31, 1999, be computed as one continuous sentence.	Same provision as SS AB 1.	No provision.
Felony Threshold for Certain Offenses	Lower the felony thresholds for the following crimes to \$1,000 from \$2,500: (a) criminal damage to property; (b) graffiti; (c) theft; (d) fraud on hotel or restaurant keeper or taxicab operator; (e) receiving stolen property; (f) fraudulent insurance and employee benefit claims; (g) financial transaction card crimes; (h) retail theft; (i) theft of library materials; and (j) issuing a worthless check. Lower the felony threshold for unlawful receipt of loan payments to \$500 from \$2,500. Finally, lower the Class E felony range for property damage to a vending machine from \$500 to \$2,500, to \$500 to \$1,000. (The higher thresholds were enacted in 2001 Act 16.)	Maintain current law in effect at the time of introduction, (a \$500 to \$1,000 threshold for applicable offenses).	Increase the threshold from current law in effect at the time the bill was introduced (\$500 to \$1,000) to \$2,000 for the applicable offenses.
Mandatory Minimum Sentences and Probation Prohibitions for Repeat Serious Sex Crime and Serious Violent Crimes	Maintain current law provision, but reduce the minimum applicable sentence length from five years to three years six months.	Same provision as SS AB 1.	Repeal the provision.
Intentionally Causing Bodily Harm to an Unborn Child By Conduct that Creates a Substantial Risk of Great Bodily Harm	Maintain the felony charge.	Same provision as SS AB 1.	Repeal the provision.

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Medical Release	Allow an inmate to request release from prison, if the inmate has a terminal condition. Define "terminal condition" as an incurable condition afflicting a person, caused by injury, disease, or illness, as a result of which the person has a medical prognosis that his or her life expectancy is six months or less, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.	Same provision as SS AB 1.	No provision.
Consolidation of Extended Supervision Revocation Proceedings	Allow proceedings related to the same person to be consolidated.	Same provision as SS AB 1.	No provision.
Videotape Deposition as Extended Supervision Revocation Proceedings	Allow the use of videotaped depositions in hearings.	Same provision as SS AB 1.	No provision.
Effectiveness of Probation, Parole and Extended Supervision	No provision.	No provision.	Require Corrections to take steps to promote the increased effectiveness of probation, extended supervision and parole in Brown, Dane, Kenosha, Milwaukee, Racine and Rock counties. Require that in each of these counties, Corrections, beginning on January 1, 2001, develop a partnership with the community, have strategies for local crime prevention, supervise offenders actively, commit additional resources to enhance supervision and purchase services for offenders, establish day reporting centers and ensure that probation, extended supervision and parole agents, on average, supervise no more than 20 persons on probation, extended supervision or parole. Require Corrections beginning no later than July 1, 2000, to begin reducing caseloads in these counties. Require Corrections to develop a plan for implementing the provisions no later than May 1, 2000, to be submitted to the Joint Committee on Finance.

Item	2001 Special Session Assembly Bill 1	2001 Engrossed Assembly Bill 3	1999 Senate Bill 357
Sentencing Commission Membership	Commission consisting of 21 members, including seven public members.	Same provision as SS AB 1.	Commission consisting of 20 members, including six public members.
Sentencing Guidelines Adopted As Administrative Rules	Provide that guidelines and standards adopted by the Commission would not be subject to the administrative rules process.	Same provision as SS AB 1.	Provide that guidelines and standards adopted by the Commission would be subject to the administrative rules process.
Effective Date	Penalty provisions generally become effective on the first day of the seventh month after publication, to first apply to offenses committed on the effective date.	Same as SS AB 1.	Penalty provisions generally become effective on the effective date of the bill.